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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26500 of 2017

Soundarapandian ... Petitioner

Vs.

1.The Commissioner
Coimbatore Municipal Corporation
Coimbatore - 641 001.

2.The Corporation Educational Officer,
Coimbatore Corporation,
Coimbatore. …Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No.10431/2016/K6 dated 15.03.2016 to quash the same and direct the 1st respondent to grant all the promotional benefits which he would have received if he were not punished.

For Petitioner : Ms.R.Pushpalatha

For R1 & R2 : Mr.K.Magesh

ORDER

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The petitioner herein while working as Record Clerk in the respondent Corporation was subjected to disciplinary proceedings by duly placing him under suspension on 15.04.1996 resulting in imposing a punishment of stoppage of one increment for a period of three months without cumulative effect and also directing for regularizing suspension period as leave for which the petitioner is otherwise entitled to, through proceedings dated 19.06.1997. Aggrieved by the same, the petitioner filed an appeal before the Appellate Committee on 19.06.1997.

2. According to the learned counsel for the petitioner, the said appeal was kept pending for a long time and finally through the impugned proceedings dated 15.03.2016, the said appeal was rejected on the ground that appeal was filed beyond the period of limitation. Aggrieved by the proceedings dated 15.03.2016, the petitioner approached this Court by filing the present writ petition.

3. This Court, on an earlier occasion i.e., 29.04.2024, heard the

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matter and directed the respondents to produce the entire file relating to the appeal filed by the petitioner. Accordingly, the entire records pertaining to the appeal is placed before this Court. From a perusal of the record, it is revealed that the appeal filed by the petitioner was already considered by the appellate Committee as early as on 08.05.1998 and the appeal was rejected and the said order of rejection was communicated to the petitioner through proceedings in Na.ka.No.45519/96/ko dated 04.06.1998. It is also noticed that rejection of appeal filed by the petitioner was also communicated to the petitioner and the same was acknowledged by the petitioner himself on 08.06.1998 itself. However, for the reasons best known, the petitioner has suppressed the fact of rejection of appeal as early as on 08.05.1998 and filed the present writ petition assailing the subsequent order passed by the respondent Corporation.

4. The respondents also filed the counter affidavit contending that the appeal filed by the petitioner was rejected as early as on 08.05.1998 and the same was also duly communicated to the petitioner, but the said fact was inadvertently not mentioned in the impugned order dated 15.03.2016.

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5. Considering the fact that the appeal filed by the petitioner was already rejected as early as 08.05.1998 and the same was also communicated to the petitioner on 04.06.1998, the impugned order dated 15.03.2016 has no consequence on the rights of the petitioner. The right of appeal provided to the petitioner was already availed by him and appropriate order has already been passed. Without assailing the said order rejecting the petitioner's appeal, the petitioner once again approached the respondent Corporation by submitting further representation and the same was rejected by the respondent Corporation by passing the impugned order. Thus, this Court is of the considered view that the appeal filed by the petitioner was already disposed of as early as 08.05.1998 itself, the impugned order is of no consequence. However, the punishment that was imposed on the petitioner is only stoppage of one increment without cumulative effect and it has no serious consequence.

6. Keeping in view the fact that the punishment that was imposed as early as in the year 1997 is sought to be assailed in the year 2016 by taking advantage of subsequent order passed by the respondents, this Court is not inclined to exercise its discretionary jurisdiction under Article 226 of the

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Constitution of India.

7. Under these circumstances, this Court does not find any merit in the writ petition and the same is accordingly dismissed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

03.06.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

1.The Commissioner
Coimbatore Municipal Corporation
Coimbatore - 641 001.

2.The Corporation Educational Officer,
Coimbatore Corporation,
Coimbatore.

MUMMINENI SUDHEER KUMAR,J.

dpa

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