



W.P.No.9299 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9299 of 2018 and
W.M.P.No.11112 of 2018

Pradeep Suryakar

... Petitioner

Vs.

1.The Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.

2.The Assistant Commissioner,
Greater Chennai Corporation,
Rippon Buildings,
Chennai - 600 003.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent relating to the passing of the impugned order issued in proceedings Va.Thu.Na.Ka.No.A2/00353/2017 dated 28.09.2017 and quash the same and consequently, direct the respondents to regularize the service of the petitioner with all service, monetary and other benefits.



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W.P.No.9299 of 2018

For Petitioner : Mr.R.Singaravelan, Senior Counsel for
Mr.R.Ramanlaal
For Respondents : Mr.R.Gopinath, Standing Counsel

ORDER

This Writ Petition has been filed to call for the records of the second respondent relating to the passing of the impugned order issued in proceedings Va.Thu.Na.Ka.No.A2/00353/2017 dated 28.09.2017 and quash the same and consequently, direct the respondents to regularize the service of the petitioner with all service, monetary and other benefits.

2. Heard Mr.R.Singaravelan, learned Senior Counsel for the petitioner, Mr.R.Gopinath, learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner was working as an Assessor in the respondent Corporation and has been given with the charge on the allegation that he did not take action in order to file an appeal on the order passed by the Consumer Court in the matter pertaining to the respondent Corporation. After the disciplinary proceedings has been initiated, the petitioner has been imposed with the punishment of censure.



W.P.No.9299 of 2018

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4. The learned Senior Counsel for the petitioner submitted that the petitioner was holding the charge of Zone - V, Divisions 56 & 57 as an Assessor only between the period from 30.12.2016 to 20.03.2017. The petitioner has been transferred to the said place on superannuation on one C.R.Vijayakumar. But he did not hand over the files of the case pertaining to the Consumer Court to him. The petitioner has also stated in his explanation that the matter before the Consumer Court was left *exparte* as no one had appeared on behalf of the Corporation between the period from 2014-16. In fact, he has also produced the handing over and taking over list of files at the time when he took charge of Zone - V Divisions 56 & 57. It is further submitted that both the disciplinary authority and the appellate authority did not appreciate the explanation given by the petitioner and the materials on record before imposing the punishment.

5. From the orders passed by the second respondent disciplinary authority, it appears that no plausible reasons have been stated to reject the explanation of the petitioner. The order has simply stated that the



W.P.No.9299 of 2018

petitioner on his own volition ought to have enquired and known about the case pending before the Consumer Forum and should have taken steps.

6. It is very difficult to understand the above rationale of the disciplinary authority to arrive at a conclusion that the petitioner was guilty of negligence. Without producing any material records or evidence to show that the petitioner had knowledge about the order passed by the Consumer Forum and he had wantonly ignored to follow up the matter, the impugned order has been passed. The predecessor of the petitioner who ought to have followed the pending case did not take steps even to see that the Corporation is defended properly. The order has been passed *ex parte* as there was no appearance on behalf of the Corporation. The order of the second respondent authority did not deal with the documents produced by the petitioner whether he had shown with the list of documents obtained by him from his predecessor which did not contain the file relating to the Consumer Case.



W.P.No.9299 of 2018

WEB COPY

7. In fact, the copy of the order of the Consumer Court is also been served on the respondent Corporation only on 21.03.2017. Before that, the petitioner had been relieved from the Division itself. When the facts are so, the petitioner has been punished without application of mind. There is no discussion in the order about the material facts which would affect the root of the matter and such an order can be presumed as something which has been passed by violating the principles of natural justice.

8. The denial of fair opportunity to the petitioner would render the whole of the disciplinary proceedings as vitiated. As the impugned order did not deal with the fundamental facts and it has been passed in a routine fashion, the petitioner has challenged the same by invoking the jurisdiction of this Court under Article 226 of the Constitution of India. In fact, the petitioner has submitted that the order of punishment has been passed against him just in order to evade from complying the direction given in his favour in the earlier Writ Petition in W.P.No.6610 of 2014. The said Writ Petition has been filed by the petitioner seeking



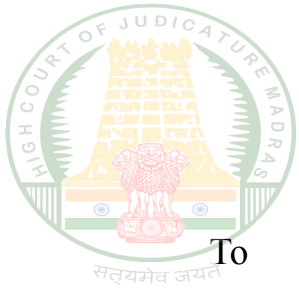
W.P.No.9299 of 2018

regularisation and attendant benefits like promotion. As the petitioner has been punished for the inaction pertaining to the case before the Consumer Court during which time he was not holding the charge of concerned Division, the impugned order is liable to be set aside.

9. In the result, this Writ Petition is allowed and the impugned order passed by the second respondent in proceedings Va.Thu.Na.Ka.No.A2/00353/2017 dated 28.09.2017 is set aside and the respondents are directed to pass consequential orders for allowing the service benefits, if any, flowing from setting aside the impugned order, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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W.P.No.9299 of 2018

To

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R.N.MANJULA, J.

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