



W.P.No.25550 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25550 of 2016

and

W.M.P.Nos.21925 and 21926 of 2016

M.S.Prabakaran

... Petitioner

Vs

- 1.The Secretary to Government,
Municipality Administration and Water
Supply Department,
Government of Tamil Nadu,
Fort St.George, Chennai – 600 009.
- 2.The Commissioner of Municipal Administration,
Municipality Administration Office,
Ezhilagam Annex,
Cheppakkam, Chennai – 600 005.
- 3.The Regional Director,
Municipality Administration Regional Director Office,
Tanjavur – 613 001.
- 4.The Commissioner,
Sirkali Municipality,
Sirkali – 609 110. Nagapattinam District.

5.Parthiban

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Charge Memo Na.Ga.No.2314/2004/C1 dated 22.02.2005, impugned Memo Na.Ga.No.2891/2015/C1 dated 25.02.2016 and Reminder Memo Na.Ga.No.2891/2015/C1 dated 07.03.2016 of the Fourth Respondent and quash the same and consequently direct the 4th respondent to reinstate the petitioner in employment with full back wages with all benefits with continuity of service.

For Petitioner : No Appearance

For Respondents : Mr.M.Murali
Government Advocate
for R1 to R3
Mr.T.M.Rajangam
Government Advocate
for R4
Mr.P.Srinivas
Standing Counsel
for R5

ORDER

In this Writ Petition, the Petitioner has challenged the Charge Memo dated 22.02.2005 bearing Reference No.Na.Ga.No.2314/2004/C1, Memo dated 25.02.2016 bearing Reference No.Na.Ga.No.2891/2015/C1 and Reminder Memo dated 07.03.2016 bearing Reference



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No.Na.Ga.No.2891/2015/C1 of the 4th Respondent and to consequently direct the 4th Respondent to reinstate the Petitioner in employment with full back wages with all benefits with continuity of service.

2. The 4th Respondent / Commissioner, Sirkali Municipality, Nagapattinam District has filed a Counter Affidavit. In Paragraph No.5 of the Counter Affidavit, it has been stated that pursuant to the aforesaid impugned Charge Memos, Final Order dated 14.09.2005 has already been passed by the 4th Respondent terminating the service of the Petitioner.

3. In Paragraph No.6 of the Counter Affidavit, it has been further stated that the Petitioner has also filed an appeal before the 3rd Respondent against the Final Order dated 14.09.2005 of the 4th Respondent.

4. That apart, in the additional Counter Affidavit filed by the 4th Respondent in Paragraph No.9, it has been stated that the 3rd Respondent after considering the materials on record in the appeal filed by the



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Petitioner vide Order dated 02.06.2015 came to the conclusion that the 4th Respondent did not conduct the Enquiry following the due process and that the Petitioner was not given an opportunity to submit his explanation.

5. Further, the 3rd Respondent vide Order dated 02.06.2015 directed the 4th Respondent to proceed from the stage of enquiry and rectify the defects in the enquiry proceedings of the 4th Respondent. Thereafter, fresh notices were issued on 25.02.2016 to the Petitioner to submit an explanation to the Enquiry Report dated 02.09.2015 of Enquiry Officer submitted pursuant to the Order dated 02.06.2015 of the 3rd Respondent. However, it is stated that Petitioner failed to reply to the aforesaid report of the Enquiry Officer.

6. Paragraph No. 11 of the Counter Affidavit further records that the Final Order has been passed on the enquiry proceedings initiated against the Petitioner based on the Enquiry Report dated 02.09.2015 following the due procedure, since the Petitioner was absconding and was not present for receiving the Enquiry Report of the Enquiry Officer.



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7. Since the Petitioner has preferred the alternate remedy and the impugned Charge Memos have attained finality with the aforesaid Final Order passed by the 4th Respondent, this Writ Petition is liable to be dismissed. However, liberty is granted to the Petitioner to challenge the Final Order passed by the 4th Respondent, if it has not been challenged already.

8. This Writ Petition is dismissed with the above liberty. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

23.04.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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