



W.P.No.16068 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE T.VINOD KUMAR

W.P.No.16068 of 2019

M.Shankar

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Petitioner

Vs

1.Chennai Metropolitan Water Supply and Sewerage Board,
rep. by its Board of Directors,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

2.Employment Committee,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

3.The Finance Director/Vigilance Officer/General Manager i/c,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

4.The General Manager,
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintadripet,
Chennai – 600 002.

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Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records from the 3rd and 4th respondents, quash the order of the third respondent proceedings No.CMWSSB/P&A/VC(A)/1938/2019, dated 08.03.2019, and the order of the fourth respondent, dated 03.05.2019, bearing letter No.CMWSSB/P&A/VC(A)/1938/2019 as illegal, arbitrary and contrary to law and consequently direct the respondents to release the increment to the petitioner along with the due arrears.

For Petitioner : Mr.Balan Haridas

For Respondents : Dr.N.Paul Sunder Singh,
Standing Counsel.

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel, appearing on behalf of the respondents.

2. Briefly put, the case of the petitioner is that aggrieved by the order of the respondents dated 13.05.2008 and 17.09.2008, he had approached this Court by filing W.P.No.24192 of 2008 and this Court, by an order, dated 02.11.2018, had disposed of the aforesaid Writ Petition by way of remand and directed the second respondent to pass a speaking order, after



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following the principles of natural justice; that the third respondent, thereafter, passed an order, dated 08.03.2019; that aggrieved by the aforesaid order, he had filed an appeal on 28.03.2019 to the Board of Directors and Employment Committee of the respondent; that by the impugned proceedings, dated 22.02.2019, the Vigilance Officer had claimed that the petitioner had already been given sufficient opportunity for filing appeal petition and, therefore, no appeal provision has been given vide proceedings, dated 08.03.2019; and that the appeal petition, dated 28.03.2019, is not feasible for consideration, which action of the authority, it is contended, is illegal, arbitrary and in violation of principles of natural justice, and amounts to the right of appeal being taken away inasmuch as it is only on account of passing of the order, dated 08.03.2019, by the third respondent, had given rise to the cause of action for him to prefer appeal.

3. Contending as above, learned counsel for the petitioner seeks for setting aside the impugned order passed by the fourth respondent with a consequential direction to the respondents to decide the appeal preferred by the petitioner on merits.

4. Per contra, learned Standing Counsel, appearing on behalf of the respondents, seeks for sustaining the impugned order. Learned Standing Counsel submits that since the order, dated 08.03.2019, has been passed merely reiterating the proceedings, dated 13.05.2008, the petitioner cannot



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feel aggrieved by the said order or to prefer an appeal there against and for the said reason, the impugned order has been passed.

5. I have taken note of the submissions made by the learned counsel appearing for the parties.

6. Though the third respondent, by the impugned order, had claimed that the order, dated 13.05.2008, holds good, it is to be noted that the aforesaid order came to be passed pursuant to order of this Court dated 02.11.2018 in W.P.No.24192 of 2008, filed assailing the action of the second respondent in passing the order, dated 13.05.2008, and of the first respondent, dated 17.09.2008, were set-aside and the matter being remanded back to the second respondent, directing him to pass a speaking order, after following the principles of natural justice.

7. It is consequent upon the aforesaid direction, the third respondent had passed the order, dated 08.03.2019, stating that the view taken vide order, dated 13.05.2008, holds good. The 3rd respondent though by the impugned order reiterated the stand taken by him earlier, it is said order by which the petitioner is aggrieved and thus, is entitled to avail the remedy of appeal there against. Admittedly, the petitioner has availed the remedy of appeal by filing an appeal to the Board of Directors and to Employment Committee on 28.03.2019. While the aforesaid appeal is filed to the Board of Directors/Employment Committee, instead of the said Board of Directors or



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the Employment Committee taking a decision on the appeal filed by the petitioner, the impugned order, dated 03.05.2019, came to be passed by the Vigilance Officer/General Manager.

8. It is to be noted that the order, dated 08.03.2019, against which the appeal had been preferred by the petitioner, itself has been passed by Finance Director/Vigilance Officer/General Manager and thus, the said same authority could not sit in appeal to decide the correctness or otherwise of the order under challenge in appeal. The appellate powers having been conferred under the Regulations on the Managing Director, the impugned order could not have been passed by the Vigilance Officer/General Manager, by sitting in appeal over an equivalent rank officer's order.

9. Further, the impugned order, as passed by the equivalent rank officer, cannot be held to be validly passed for it to be sustained for the reason that by the said order, it has been stated that the petitioner has already been granted sufficient opportunity for filing appeal petition and, therefore, no appeal provision can be given to him against the order, dated 08.03.2019, which conclusion arrived at by the said authority, in the considered view of this Court, would amount to the right of appeal conferred on the petitioner pursuant to the third respondent passing the order, dated 08.03.2019, being taken away, which the respondents cannot resort to.



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10. Accordingly, the Writ Petition is, allowed and the impugned order is set aside. Respondents No.1 and 2, who are the competent authorities to adjudicate the appeal petitions filed against the orders passed by the respondents concerned in terms of the Regulations, are directed to decide the appeal submitted by the petitioner on 28.03.2019 in accordance with law, after affording an opportunity of hearing to the petitioner. No order as to costs.

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Index : Yes/No
Internet : Yes/No

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T.VINOD KUMAR, J.

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