



W.P. No. 20791 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

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THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 20791 of 2019

S.K.Sriman Narayanan @ M.S.K.Aadhavan Balaji

... Petitioner

-VS-

1. The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai-600003.

2. The Regional Deputy Commissioner (Central)
Greater Chennai Corporation
Pulla Avenue, Shenoy Nagar
Chennai-600030.

3. The Zonal Officer
Zone VIII
Greater Chennai Corporation
Pulla Avenue, Shenoy Nagar
Chennai-600030.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent in Ma.Va.Aa.Na.Na.Ka.No.A4/3545/2016 dated 16.06.2016 and subsequent order issued by the first respondent in Po.Thu.Na.Ka.No.E9/032720/2016 dated 12.12.2018 and to quash the same and consequently directing the respondents to reinstate the petitioner into service with all consequential and other attendant benefits.



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For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : M/s.K.Aswini Devi, SC for (GCC)

ORDER

Heard Mr.K.Nedunchezhiyan, learned counsel for the petitioner and M/s.K.Aswini Devi, learned Standing Counsel for the respondent Greater Chennai Corporation and perused the materials placed on record, apart from the pleadings of the parties.

2. This writ petition has been filed to call for the records relating to the proceedings issued by the second respondent in Ma.Va.Aa.Na.Na.Ka. No.A4/3545/2016 dated 16.06.2016 and subsequent order issued by the first respondent in Po.Thu.Na.Ka.No.E9/032720/2016 dated 12.12.2018 and to quash the same and to consequently direct the respondents to reinstate the petitioner into service with all consequential and other attendant benefits.

3. The petitioner who was appointed as Driver in the respondent Corporation on 09.04.1994 on daily wages and made permanent appointment on 16.03.2000. In view of the certain lapses on the part of the petitioner, he was placed under suspension on 10.05.2014 and thereafter, a charge memo was



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issued against him on two grounds.

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4. The allegations against the petitioner is that he was working as a LIC Agent without permission from the department by changing his name as M.S.K.Aadhavan Balaji. In this regard, a Gazette notification has also been issued by the Government, but the petitioner did not intimate the same to the department. An enquiry officer has been appointed and he has submitted that a report on the finding that the charges against the petitioner have been proved.

5. The petitioner has been issued with a second show cause notice as he had given a request stating that his explanation has not been received. As the petitioner has been given with the opportunity to file his additional explanation, if any, he has submitted his explanation on 04.02.2016.

6. After his explanation has been submitted, the second respondent has accepted the report of the enquiry officer and passed an order of punishment on 16.06.2016. The appeal preferred by the petitioner before the first respondent appellate authority was also dismissed on 12.12.2018.

7. The learned counsel for the petitioner submitted that when the appeal was



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pending, he had sent a representation on 26.12.2016 seeking for subsistence

allowance, but the petitioner was not paid with the subsistence allowance and hence, he could not effectively defend himself before the appellate authority. As the petitioner has submitted that he has not given with the fair opportunity, the order of punishment passed by the second respondent and the order confirming the punishment passed by the first respondent should be set aside. The learned counsel for the petitioner further submitted that there is a third charge and it does not relate to the original two charges.

8. The learned counsel for the respondent submitted that failure to pay subsistence allowance would not vitiate the entire enquiry proceedings unless it is proved that it is a denial of opportunity and no prejudice has been caused due to non-payment of subsistence allowance. However, the learned counsel for the petitioner submitted that failure to pay the subsistence allowance would amount to denial of opportunity, because the petitioner is not able to defend himself effectively.

9. In the instant case, very allegation of the petitioner is that he is doing the business of LIC Agent by concealing his name and changing his name into some other name without giving intimation to the department. The charges on



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that score have also been proved. This would only show that the petitioner has been making additional income by doing an additional job as LIC Agent. Even though the respondent did not deny the petitioner's entitlement to receive the subsistence allowance, in view of his additional engagement as LIC Agent the petitioner might not have suffered any monetary loss in order to deprive him to effectively participate in the enquiry process.

10. No doubt, the petitioner ought to have been paid with the subsistence allowance after his suspension. But the allegation against the petitioner itself is that he had engaged in some other job by employing him gainfully as an LIC Agent. Apart from the failure to pay the subsistence allowance, the petitioner did not raise any other grounds to find fault with the order of punishment of removal from service imposed by the second respondent and confirmed by the first respondent. Through out the proceedings the petitioner has been given with the sufficient opportunity and he had even submitted his additional explanation by making use of the additional opportunity given to him.

11. At no point of time the petitioner had filed any proceedings in order to see direction against the respondent to get subsistence allowance during the pendency of the enquiry proceedings. The petitioner has not shown any



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materials or circumstances to show that he was prejudiced in view of the

non-payment of the subsistence allowance and that it vitiated the entire enquiry proceedings. Unless the petitioner could establish the same, the failure to pay subsistence allowance alone would vitiate the enquiry proceedings as held by the Hon'ble Supreme Court in the case *Indra Bhanu Gaur -vs- Committee, Management of M.M. Degree College and Ors* reported in (2004) 1 SCC 281.

12. The petitioner appears to have fraudulently changed his name in order to do a double business, which is forbidden. So it was within discretionary of the second respondent to impose the capital punishment of removal from service. The first respondent also convinced with the reasoning given by the enquiry officer for proving the charges and reasons for imposing the capital punishment of removal from service.

13. As the allegations are serious in nature, the punishment also commensurate with parity of charges. Hence, I do not feel any dis-proportionality in the matter of punishment.

14. In view of the above stated reasons, this writ petition is dismissed. No



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Internet: Yes/No

Speaking /Non-speaking order

Maya

To

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R.N.MANJULA, J.

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