



W.P.No.33204 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.33204 of 2019

R.Venkatachalam

... Petitioner

Vs.

1.The Corporation of Chennai,
Rep. by its Commissioner,
Rippon Buildings, Chennai.

2.The Regional Deputy Commissioner (Central),
Office of the Regional Deputy Commissioner Office,
Aminjikarai, Chennai.

3.The Special Officer / Commissioner,
Greater Corporation of Chennai,
Ribbon Building, 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 in connection with the order dated 24.09.2019 in proceedings reference No.Ma.Va.A.Na.Ka.No:A4/3651/2018 of the second respondent and quash the same.

For Petitioner : Mr.R.Srinivas, Senior Counsel for
Ms.Mythili Srinivas

For Respondents : Mr.S.Gopinath, Standing Counsel



W.P.No.33204 of 2019

ORDER

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This Writ Petition has been filed to call for the records in connection with the order dated 24.09.2019 in proceedings reference No.Ma.Va.A.Na.Ka.No:A4/3651/2018 of the second respondent and quash the same.

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

3. On the disciplinary proceedings initiated against the petitioner, the second respondent has passed an order on 16.07.2018. Again, the very same authority has passed an another order on 24.09.2019. In the order dated 24.09.2019, the petitioner was given with punishment of stoppage of three months increment without cumulative effect. After receiving the order dated 16.07.2018, the petitioner has preferred an appeal before the appellate authority.



W.P.No.33204 of 2019

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4. The learned Senior Counsel for the petitioner submitted that once the disciplinary authority viz., the second respondent passed an order dated 16.07.2018 he became *functus officio*. Thereafter, he does not held any authority to pass an another order dated 24.09.2019 and that too, without giving any opportunity to the petitioner and hence, both the orders are liable to be set aside.

5. The learned Standing Counsel for the respondents submitted that only when the appeal was filed by the petitioner challenging the order dated 16.07.2018, it is seen by the appellate authority that the disciplinary authority has not imposed any punishment. But, he has only regularised the period during which the petitioner was under suspension. Hence, it has necessitated the second respondent to pass an order of punishment. In fact, the order dated 24.09.2019 is alone the order of punishment.

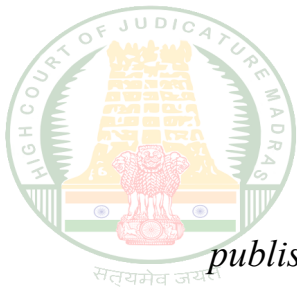


W.P.No.33204 of 2019

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6. On perusal of the order dated 16.07.2018, it is seen that the second respondent has not passed any order with regard to the punishment. He has only stated that among two charges, one charge was not proved and another charge was proved. However, in order to treat the period of suspension as leave on loss of pay, he has not even stated that it would amount to punishment or it simply regularises the period under suspension. Only in the order dated 24.09.2019, it is seen that there is a punishment for stoppage of three months increment without cumulative effect and that the period of suspension be treated as leave on loss of pay.

7. The contention of the learned Senior Counsel for the petitioner is that once the disciplinary authority has passed an order, he became *functus officio* and thereafter, he does not hold any authority to pass any further orders. In support of his contention, he relied upon the judgment of the Hon'ble Supreme Court in the case of ***State Bank of India and Others Vs. S.N.Goyal, reported in (2008) 8SCC 92***. In the said judgment, the Hon'ble Supreme Court has held that "*a quasi judicial authority will become functus officio once the order is pronounced,*



W.P.No.33204 of 2019

published or communicated to the party concerned. It is further clarified that if an order is made in an office noting in a file but is not pronounced, published or communicated, nothing would prevent the authority from correcting it or altering it for any valid reasons. Once the order is pronounced or communicated, the authority does not have any power to correct the same". There cannot be any disagreement on the point that once the authority has passed an order, he becomes *functus officio* and he does not have any power to pass any further orders on the said subject.

8. In the instant case, the facts are different where the disciplinary authority has passed an order in a slipshod manner without mentioning the punishment part itself. He has passed an order relating to the period under suspension and how the period under suspension should be treated. He has not even stated whether such treatment itself would amount to punishment. When the appeal is filed before the appellate authority, the appellate authority can deal with the appeal only if he comes to know what exactly the order of punishment passed by the disciplinary



W.P.No.33204 of 2019

authority. In my opinion, it is a sheer clerical omission committed by the disciplinary authority and it could have rectified subsequently by inheriting the punishment portion by quoting that the petitioner has been imposed with the punishment of stoppage of increment without cumulative effect for three months. Only thereafter, the appellate authority will have the matter for punishment to be considered before him.

9. In the strange facts and circumstances placed before me, I can only see that the disciplinary authority has not completed his job of passing order and hence, he was compelled to pass an order dated 24.09.2019 for the sake of completion. So, loosing of authority for passing the meaningful and complete order will not arise in the present situation. Hence, the argument that the disciplinary authority has become *functus officio* will not arise. When incorrect or deficit order has been communicated to the petitioner, the petitioner has got the entitlement to know how further order is going to be passed against him. In that case, it would have been ideal for the second respondent that he would have



W.P.No.33204 of 2019

given notice to the petitioner by citing the fact that he going to pass punishment order separately or by rectifying the mistake. But no such notice has been given to the petitioner and hence, the grievance of the petitioner on that aspect is justified.

10. The petitioner has already filed an appeal and obviously the petitioner cannot have any opportunity to make out any grounds of appeal on the quantum of punishment because he had known about the imposition of stoppage of one increment for three months only after he filed an appeal. So, I feel it is appropriate to give liberty to the petitioner to raise additional grounds before the appellate authority himself as how he has been deprived to know about the charges framed against him in the order passed by the disciplinary authority along with the grounds he already raised.

11. In view of the above stated reasons, this Writ Petition is disposed by giving liberty to the petitioner to raise additional grounds to the appellate authority on the above aspect within a period of four weeks



W.P.No.33204 of 2019

from the date of receipt of a copy of this order and the third respondent
appellate authority is directed to dispose the appeal and pass appropriate
orders within a period of four weeks thereafter. No costs.

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

03.04.2025



W.P.No.33204 of 2019

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To

- 1.The Commissioner,
The Corporation of Chennai,
Rippon Buildings, Chennai.
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W.P.No.33204 of 2019

R.N.MANJULA, J.

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W.P.No.33204 of 2019

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