

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE V. RAMASUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE P.R. SHIVAKUMAR

Writ Petition No.8154 of 2015
and M.P.No.1 of 2015

Priya ... Petitioner

Vs

1. The Principal District Judge
Salem
2. The Subordinate Judge
Attur ... Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari calling for the records pertaining to the impugned notices issued by the first respondent herein dated 25-02-2015 and 12-03-2015 in his proceedings in Roc.No.13011/2014/Inq and quash the same.

For petitioner :: Mr. R. Nalliyappan
For respondents :: Mr. P.K. Rajagopal for RR1 and 2

ORDER

(Order of the Court was made by V.RAMASUBRAMANIAM, J.)

The petitioner, who is working as an Office Assistant in the Sub-Court, Attur has come up with the above writ petition, challenging the notices issued by the first respondent calling upon the petitioner to show cause as to why her services should not be terminated without holding an enquiry.

2. Heard Mr. R. Nalliyappan, learned counsel for the petitioner and Mr.P.K. Rajagopal, learned counsel for the respondents.

3. The petitioner was appointed as an Office Assistant on 21-04-2014. It appears that she was originally posted at the Family Court, Salem and later transferred to the Sub-Court, Salem. Thereafter, she was posted to other Courts. Now, she is working in the Court of learned Sub-ordinate Judge, Attur.

4. By the proceedings, dated 25-02-2015, the first respondent called upon the petitioner to show cause as to why she should not be removed from service. The show cause notice stated that the petitioner was absent unauthorisedly from 20-06-2014 to

22-06-2014 and from 27-06-2014 to 02-07-2014 and that, she was alleged to have refused to obey the orders of the superiors and that, she was also involved in duties other than those assigned by the Office, causing mental trauma to the learned Sub-Judge. The proceedings appear to have been issued on the basis of a report of the learned Sub-Judge, Attur.

4. To the said show cause notice dated 25-02-2015, the petitioner submitted a reply dated 03-03-2015, seeking copy of the report sent by the learned Sub-Judge. But, by another show cause notice dated 12-03-2015, the first respondent rejected the request on the ground that the report of the learned Sub-Judge, Attur was confidential and that, copies of the same could not be issued to her. By this proceeding dated 12-03-2015, the first respondent called upon the petitioner to submit an explanation within five days. Therefore, aggrieved by both the proceedings, the petitioner is before this Court.

5. At the outset, it should be pointed out that no disciplinary proceedings appear to have been initiated against the petitioner in terms of Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The procedure prescribed therein, cannot be by-passed, when the first respondent seeks to impose the penalty of removal from service or any other major penalty, on allegations of grave misconduct.

6. A look at the first show cause notice, dated 25-02-2015, would show that several allegations, without details, have been made against the petitioner at the behest of the learned Sub-Judge, Attur. Therefore, the first respondent is not entitled to keep everything secret and merely issue a show cause notice for removing the petitioner from service.

7. In view of the above, the writ petition is allowed and the impugned proceedings are set aside. It will be open to the first respondent to follow the procedure prescribed by law. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Principal District Judge, Salem
2. The Subordinate Judge, Attur

+1 cc to Mr.R.Nalliyappan, Advocate, SR.17670.

br(co)
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