

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.11738 of 2016

Er.R.Mohana M.E.

.. Petitioner

Vs

State represented by

1. The Chief Secretary
Secretariat, Chennai - 9

2. The Home Secretary,
Secretariat, Chennai -9

3. The Secretary,
Public Works Department
Secretariat, Chennai -9.

4. T.Tamilarasu

5. The Additional Deputy Superintendent
of Police Prohibition Enforcement
Wing - Enquiry Officer
Office of the District
Superintendent of Police
Nethimedu, Salem

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent - 3 to consider the representation 08.3.2016 accordingly to stop all retirement benefits of said Mr.T.Tamilarasu, the Superintending Engineer, P.W.D. (Building and C&M) Circle, Salem who is in the verge in retirement on 31.3.2016 to the letter in spirit without any delay.

For petitioner : Mr.V.Rajasekar

For R1 to R3
and R5

: Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

The writ petition has been filed by Engineer R.Mohana, who was appointed as Assistant Engineer in the Public Works Department through TNPSC on 01.11.2007 and now working at Public Works Department, Building (Construction and Maintenance), Omalur from 17.8.2012, seeking a direction to the respondent No.3, to consider her representation dated 08.3.2016.

2. It is alleged by the petitioner that when she was transferred to Omalur on 17.8.2012, the fourth respondent, T.Tamilarasu, the Superintending Engineer, P.W.D.(Building C&M) Circle, Salem humiliated and harassed her. In this regard, the petitioner states that she has also given a complaint against the fourth respondent and others on the ground of Sexual harassment followed by a petition in WP.No.13645 of 2014 seeking a writ of mandamus directing the Chief Engineer, (Buildings) Public Works Department, Trichy Region, Trichy, to take action on the letter No.Vu.Se.Podil.10/Udhavi.2/30649/204-1 dated 17.4.2013 forwarded by the The Engineer in Chief/ Deputy Chief Engineer (Buildings) and consequently, to forbear the third respondent from altering the service of the petitioner in any manner without procedure contemplated under law. This Court by order dated 14.05.2014, directed the Chief Engineer (Buildings), Public Works Department, Trichy, to comply with the direction issued by the Engineer in Chief/Deputy Chief Engineer (Buildings) vide his proceedings dated 11.04.2014 and enquire into the matter. Pursuant thereto, according to the petitioner, without conducting proper enquiry on the allegation of sexual harassment, the Chief Engineer, Trichy, passed an order dated 08.7.2014 rejecting the same stating that the complaint made by her is frivolous and false one. Aggrieved by the said order, the petitioner has filed WP.No.19727 of 2014 and the same is pending.

3. In the meanwhile, the Chief Engineer, P.W.D. Buildings, Chepauk, Chennai, has issued a charge memo dated 28.10.2014 under Rule 17(b) of the Tamil Nadu Subordinate Service (Discipline and Appeal) Rules on the ground that the petitioner's husband settled the Bank loan, availed prior to joining the service as Assistant Engineer on January 2014 which, according to her, is in no way connected with her service. Therefore, the petitioner again filed a writ petition on 11.11.2014 challenging the correctness of the charge memo in WP.No.29498 of 2014. This Court, while ordering notice to the respondents therein, issued a direction to the Enquiry Officer to proceed with the enquiry but not to pass final orders with further direction to the Registry to post the writ petition along with WP.No.19727 of 2014 already pending.

4. When things are such, the petitioner was transferred to the Office of the Chief Engineer (Buildings Region), Trichy by order dated 11.11.2014 of the Chief Engineer, P.W.D. against which she filed yet another writ petition in W.P.No.30422 of 2014 and this Court, on 21.11.2014, passed an order of status-quo along with a direction to the Registry to club the writ petition along with the other pending Writ Petitions.

5. The petitioner contended that inspite of the orders passed by this Court, the fourth respondent threatened and obstructed her from discharging her duties with the help of some outsiders. It is submitted that though she went on Medical Leave from 17.11.2014 to 01.12.2014, even before expiry of the Medical Leave, she cancelled the same and joined duty on 28.11.2014. She further pleaded that when she reported for duty on 08.12.2014, she was not allowed to discharge her duty and she came to know that at the instigation of the fourth respondent, one Mr.Nagarajan, was posted in her place to look after the work. Therefore, she filed Contempt Petition No.2159 of 2015 for disobeying the order of this Court dated 21.11.2014 made in WP.No.30422 of 2014.

6. According to the petitioner, since there was a grave threat from the outsiders who are trespassers, at the instigation of the officers and the fourth respondent, she has again given a complaint dated 08.12.2014 to all the higher Police officials, District Collector and local Police Station, Omalur. The further case of the petitioner is that since no action was taken on her petition, on 08.01.2015, she gave a complaint reporting her grievance to the Inspector General of Police, Coimbatore, who, in turn, directed the Superintendent of Police, Salem to conduct enquiry on her petition. Subsequent to the said direction, the Superintendent of Police, Salem has appointed the Additional Deputy Superintendent of Police to conduct enquiry and enquiries were conducted on 03.01.2015 and 31.01.2015. Thereafter, finding no response, the petitioner has filed a petition invoking Section 482 of Cr.P.C in Crl.OP.No.2190 of 2016 seeking a direction to the Police to grant her police protection in order to discharge her lawful duties in the office of the Public Works Department Building (Construction and Maintenance) Section, Omalur, Salem based on her petition dated 08.01.2015 and this Court, by order dated 09.2.2016, directed the Additional Deputy Superintendent of Police, Prohibition Enforcement Wing- Enquiry Officer, Salem, the fifth respondent herein, to enquire into the matter and pass orders on the petition given by her on 08.01.2015 on merits and in accordance with law as expeditiously as possible.

7. It is also the case of the petitioner that despite the direction of this Court, since no enquiry was conducted and no case was registered, she filed a Contempt petition in

SR.No.11440 of 2016 on 23.3.2016 to punish the officials for disobedience of the order dated 09.2.2016.

8. When the matter stood thus, one Social activist, contacted the Superintendent of Police, Salem, over phone to take action on the petitioner's complaint. Contending that there was no response, the petitioner has come to this Court with the instant petition on the same issue. It is also seen that the petitioner has filed one more Writ Petition in W.P. No. 1854 of 2016 claiming salary from the month of August 2014.

9. Though the petitioner has contended that no proper enquiry was conducted, it is seen that as per the direction of this Court dated 14.5.2014 in WP.No.13645 of 2014, the Engineer in Chief/Deputy Chief Engineer (Buildings), held proper enquiry and submitted a detailed report dated 08.7.2014, making it clear that her complaint was bereft of any merit and as such it clearly shows that the complaint made by the petitioner was frivolous and false one. Again, to put pressure on her complaint dated 08.01.2015 to take action against one Mr.Nagarajan, Assistant Engineer, the petitioner herein filed a Crl.O.P.No.2190 of 2016 before this Court seeking a direction to the respondent therein to grant police protection to her in order to carry on her lawful discharge of duties. This Court, by order dated 09.02.2016, directed the Additional Deputy Superintendent of Police, Prohibition Enforcement Wing - enquiry Officer, Salem, to dispose of the petition dated 08.01.2015 of the petitioner as expeditiously as possible. Thereafter, the said official, on enquiry, found her petition dated 08.01.2015 as frivolous and also bereft of any truth. Again, when the petitioner suffered transfer on 11.11.2014, she moved a writ petition No.30422 of 2014 and obtained an order of status quo only on 21.11.2014, in the meanwhile, Mr.Nagarajan, Assistant Engineer transferred to the petitioner's place took charge, seemingly, before the order of status-quo was granted, therefore, one complaint was filed against the said Mr.Nagarajan, A.E., on 08.02.2015 alleging that he has prevented her from discharging official functions.

10. A perusal of the aforementioned facts and the allegations after allegations made by the petitioner would show the peculiar attitude of the petitioner. After a careful scrutiny of the Enquiry reports placed on record, this Court is of the view that as alleged the petitioner has not been harassed, instead, she is harassing the officials in the Departments.

11. Initially, the petitioner had made a complaint on 31.03.2014 addressing the higher officials including the Chief Minister's Grievance Cell, Human Rights Commissioner, Secretary, Public Works Department, Home Secretary, Chief Secretary,

Vigilance Cell, etc. mentioning the facing of humiliation in the work place, which was forwarded to the Chief Engineer (General), PWD, Chennai, who, in turn, forwarded the same to the Chief Engineer (Building), PWD, Trichy, with a direction to take necessary action and submit a report within three days. However, finding no response, the petitioner had filed a Writ Petition No.13645 of 2014, wherein this Court, by order dated 14.05.2014, directed the Chief Engineer (Buildings), PWD, Trichy, to comply with the direction of the first respondent / Engineer in Chief (Buildings), PWD, Chennai, and enquire into that matter. Pursuant to the direction of this Court, the Chief Engineer (Buildings), PWD, Trichy, on completing the enquiry, submitted a report dated 08.07.2014. From the said report, it is seen that the petitioner has preferred various complainants against the higher official only to wriggle out the alleged irregularities committed by her as accused by the contractors seeking to take action against her departmentally.

12. Again, at the risk of repetition, it may be mentioned that the petitioner has again approached this Court by filing Crl.O.P.No.2190 of 2016 seeking a direction to the respondent therein to grant police protection to her in order to carry on her lawful discharge of duties. It is not known how she can ask for police protection to do her work in the office, when Mr.Nagarajan, Assistant Engineer, who was transferred to the petitioner's place, has already taken charge before she obtained an order of status-quo. Besides, when she obtained a direction to the Additional Deputy Superintendent of Police, Prohibition Enforcement Wing - enquiry Officer, Salem, to dispose of her petition dated 08.01.2015, the said official again found that petition as frivolous and far from truth.

13. In these facts and circumstances, this Court would also deem fit to mention that the petitioner is exceeding her brief, which fact is evident from her affidavit itself, wherein she has stated that at her instance, one Social activist, who is stated to be her close friend, contacted the Superintendent of Police, Salem, over mobile phone number, for taking action on her complaint. Apart from this, she has also enclosed two photographs in page Nos.62 and 63 of the typed set of papers, showing the picture of the social activist, which, in the considered opinion of this Court, would show that she is posing a threat to the officials of the Department by bringing outsiders to mount pressure on officials matters. Such an approach of the Government Official would send a wrong signal, if it is not curbed in the bud. In this regard, it is pertinent to point out that the petitioner, being a public servant, viz., Engineer of the Public Works Department, is not supposed to bring any third party to pressurize the officials of the Departments to do or not to do anything for any reason

whatsoever.

14. Though the two Enquiry Reports mentioned supra found her complaints as totally false one, yet, she has been relentlessly filing petitions one after another causing unnecessary chaos to the administration. Besides, as highlighted above, she has openly admitted in her affidavit that one social activist, Mr. Traffic Ramasamy, a close family relative, was asked to contact the Superintendent of Police, Salem, through mobile phone No.9498123555, however, in spite of such effort, it was complained that no response was forthcoming either to her or to the said social activist. In my view, such an approach of the petitioner is a clear violation of Rule 18 of the Tamil Nadu Government Servants' Conduct Rules, 1973, under which, no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his/her interest in respect of matters pertaining to his/her service under the Government. In this regard, it is pertinent to extract the the said Rule.

18. Canvassing of non-official or other outside influence - No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under the Government.

Explanation I - Government servant causing his own case to be made the subject of an interpellation in Parliament or the State Legislature shall be deemed to have contravened this rule.

Explanation II - When M.L.As, M.L.Cs, M.Ps. and other non-officials make representations on behalf of individual Government servants to Ministers, Heads of Departments or other higher officers, it shall be presumed that the concerned Government servant was responsible for bringing political or outside influence to bear upon the superior authority to further his interest unless he proves to the contrary.

A mere perusal of the above said Rule clearly shows that the petitioner has committed a grave misconduct of indiscipline in bringing outside influence to further her interest in respect of matter pertaining to her service in the Government Department and thereupon acted in a manner unbecoming of a Government servant and thereby contravened the Rule 18 of the Tamil Nadu Government Servants' Conduct Rule, 1973. Such acts are clear misconduct, hence, I have no hesitation to direct the

Disciplinary Authority to initiate suitable disciplinary action against her departmentally, for, if she is allowed to continue, the same would send a bad precedent diminishing the decorum and sanctity of the State Administration.

With the above directions, the writ petition fails and is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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2. The Home Secretary,
Secretariat, Chennai -9
3. The Secretary,
Public Works Department
Secretariat, Chennai -9.
4. The Additional Deputy Superintendent of Police
Prohibition Enforcement Wing - Enquiry Officer
Office of the District Superintendent of Police
Nethimedu, Salem

+1cc to Mr.V. Rajasekar, Advocate, S.R.No.19803

+1cc to the Government Pleader, S.R.No.20149

SNS (CO)
EU(7/04/2016)

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