

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.11.2016

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.14150 of 2013
and M.P.Nos.1 and 2 of 2013

A.Jaithoon

.. Petitioner

Vs

- 1.The Chief Secretary to Government,
Public (Ex-Ser) Department,
Secretariat, Chennai.
- 2.The Joint Secretary to Government,
Public (Ex-Ser) Department,
Secretariat, Chennai.
- 3.The Principal Secretary to Government,
Public (Ex-Servicemen) Department,
Secretariat, Chennai.
- 4.The Joint Secretary to Government,
Industries Department & Enquiry Officer,
Public (Ex-Servicemen) Department,
Secretariat, Chennai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus forbearing the respondents from in any manner proceeding with the enquiry without first granting the petitioner the documents sought for vide letter dated 8.4.2013 so as to enable her to submit defence statement.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.R.Govindasamy
Special Government Pleader

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O R D E R

The petitioner was issued with a charge memo on 17.01.2013 by the first respondent. Pursuant to the charges, the petitioner had sought for copies of the documents which the first respondent had relied upon. Though the first respondent had furnished certain documents, they failed to give the Government Order sought for by the petitioner, however they proceeded with disciplinary proceedings. Hence, the petitioner has filed the present writ petition.

2. Heard Mr.T.N.A.Nissar Ahmed, learned counsel appearing for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents.

3. The learned counsel for the petitioner would submit that as the charges laid against the petitioner pertains to grant of lease to private parties, she had sought for a copy of G.O.Ms.No.902 dated 14.04.1980 which enables grant of lease to private parties. However, the same was not furnished to the petitioner, inspite of her requests. Whenever the authorities rely upon any document for framing the charges, no prejudiced would be caused to them if the same is furnished to the delinquent in advance so as to enable him to defend his case. The learned counsel for the petitioner would further submit that inspite of his request, the said document is yet to be furnished to the petitioner. Under such circumstances, it would be appropriate to direct the respondents to supply to the petitioner with all the documents, on which, they relied upon while framing charges as well as conducting domestic enquiry.

4. The learned Special Government Pleader would submit that all the documents sought for by the petitioner have already been furnished to the petitioner and that if any further document is relied on by them during the course of enquiry, the same will also be furnished.

5. The learned counsel for the petitioner would also rely upon the Judgment of the Hon'ble Supreme Court reported in 1995 (2) LLJ 625 SC, (Committee of Management Kisan Degree College vs. Shambhu Saran Pandey and Ors.) wherein, in para-5, it has been held as follows:

5. On the facts and circumstances, we are of the view that at the earliest the respondent sought for the inspection of documents mentioned in the charge-sheet and relied on by the appellant. It is settled law that after the charge-sheet with necessary particulars, the specific averments in respect of the charge shall be made. If the department or the management seeks to rely on any documents in proof of the charge, the principles of natural justice require that such copies of those documents need to be supplied to the delinquent. If the documents are voluminous and cannot be supplied to the delinquent, an opportunity has got to be given to him for inspection of the documents. It would be open to the delinquent to obtain appropriate extracts at his own expense. If that opportunity was not given, it would violate the principles of

natural justice. At the enquiry, if the delinquent seeks to support his defence with reference to any of the documents in the custody of the management or the department, then the documents either may be summoned or copies thereof may be given at his request and cost of the delinquent.

The above observation of the Hon'ble Supreme Court applies to the case of the petitioner.

6. Hence, there shall be a direction to the first respondent to furnish the petitioner with all the documents relied upon them during the course of the disciplinary proceeding in order to provide due opportunity to the petitioner to defend his case. The disciplinary proceedings initiated against the petitioner shall be conducted without any violation of principles of natural justice. The entire exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

kkd

To

- 1.The Chief Secretary to Government,
Public (Ex-Ser) Department,
Secretariat, Chennai.
- 2.The Joint Secretary to Government,
Public (Ex-Ser) Department,
Secretariat, Chennai.
- 3.The Principal Secretary to Government,
Public (Ex-Servicemen) Department,
Secretariat, Chennai.

4.The Joint Secretary to Government,
Industries Department & Enquiry Officer,
Public (Ex-Servicemen) Department,
Secretariat, Chennai.

1 cc to Mr.N. A. Nissar Ahmed, Advocate, Sr. 65790
2 ccs to Government Pleader, Sr. 66122, 66166

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SR (CO)
kk 19/1



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