

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-07-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.25379 of 2016
and W.M.P.No.21682 of 2016

S.Raja Sekhara Reddy

.. Petitioner

Vs.

1.The Union of India
rep. by its Secretary to Government
Ministry of Home Affairs
New Delhi.

2.The Director General
Central Industrial Security Force
CGO Complex
Lodhi Road
New Delhi-600 003.

3.The Inspector General
Central Industrial Security Force
Southern Sector
Near War Memorial
Chennai Port Trust Campus
Chennai-600 009.

4.The Deputy Inspector General
Central Industrial Security Force
RTC, Arakkonam
Vellore District-631 152.

5.The Commandant
Central Industrial Security Force
RTC Arakkonam
Vellore District-631 152.

.. Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Office Memorandum issued by the 4th respondent, dated 18.03.2016 in his Order No.V-15014/Disc/Gen.correc/2015/1981 and the Memorandum issued by the 5th respondent, dated 25/26.06.2016 in his Memorandum No.V-15014/CISF/RTC(A)/Disc./SRR/Maj/2016/2309 and quash the same and to direct the respondents to furnish the petiitoner the records relating to the enquiry held in the year 2008 so as to enable the petitioner to file the written statement of defence.

ORDER

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed seeking to call for the records relating to the impugned Office Memorandum issued by the 4th respondent, dated 18.03.2016 in his Order No.V-15014/Disc/Gen.correc/2015/1981 and the Memorandum issued by the 5th respondent, dated 25/26.06.2016 in his Memorandum No.V-15014/CISF/RTC(A)/Disc./SRR/Maj/2016/2309 and quash the same and to direct the respondents to furnish the petitioner the records relating to the enquiry conducted in the year 2008 so as to enable the petitioner to file the written statement of defence.

3. The petitioner, while he was working as Inspector in the Central Industrial Security Force, was issued with a charge memo for running business while in service and also for not intimating the authority concerned regarding his marriage with one S. Parvathi and the child born to them. For giving an explanation, the petitioner had sought time. Accordingly, time was granted. While so, the petitioner had submitted a representation, on 07.03.2016, seeking documents relating to the alleged enquiry, which was conducted in the year 2008, but, the same was rejected by the 4th respondent, by the impugned order dated 18.03.2016. Subsequently, the 5th respondent, vide impugned memorandum, dated 25/26.06.2016, directed the petitioner to submit his written statement of defence. Aggrieved against the same, the petitioner has come forward with this Writ Petition seeking the relief stated supra.

4. Mr.M.MD.Ibrahim Ali, learned counsel for the petitioner would submit that the grievance of the petitioner is that an enquiry was conducted and the same was closed as early as in the year 2008 and if the documents relating to the alleged enquiry, which was conducted in the year 2008, is given to him that will be helpful for his defence.

5. Mr.K.Raju, the learned Central Government Standing Counsel, who took notice on behalf of the respondents, would contend that first of all, the charge is very serious in nature, as a person in Government Service cannot run a business. Secondly, the petitioner has not intimated regarding his marriage with Parvathi and the child born to them. Though, the learned counsel for the petitioner has raised a plea that the petitioner is in need of documents, especially, the documents relating to the alleged enquiry, which was conducted in the year 2008, it is not established by the petitioner as to whether such an enquiry took place in the year 2008, that too in respect of the very same subject matter, therefore, his representation was rightly rejected, on 18.03.2016. He would further contend that the petitioner can very well appear before the authority concerned and can raise all the pleas and he shall also co-operate with the enquiry.

6. Heard both sides. First of all, in the matter relating to disciplinary proceedings, that too, the petitioner being a member of the disciplined force, normally, the Court will not interfere. The

petitioner was only asked to submit his explanation. The petitioner has to necessarily give an explanation. Now, the grievance of the petitioner is that an enquiry was conducted and the same was closed as early as in the year 2008 and that if the documents relating to the alleged enquiry, which was conducted in the year 2008, is given to him it will be helpful for his defence. As the documents sought for by him were not given, he has not given the explanation to the notice.

7. On a careful perusal of the materials placed on record, it is seen that there was some enquiry conducted in the year 2008. As rightly pointed out by the learned Central Government Standing Counsel appearing for the respondents, whether the alleged enquiry pertains to the very same subject matter or not, is not clear, therefore, this Court, without going into the merits of the claim made by the petitioner, directs the petitioner to give his reply to the charge memo on or before 31.07.2016, without waiting for copy of this order. On receipt of the same, the authority concerned shall consider it and proceed further in accordance with law. It is further made clear that in the explanation to be submitted by the petitioner, if he is able to establish regarding the alleged enquiry held in the year 2008, including the nature of enquiry with any supporting document, then the authority concerned, if feels it necessary, must take it also into consideration. However, it will not preclude the petitioner from giving the explanation and to participate in the enquiry. It is needless to mention the petitioner shall cooperate with the enquiry proceedings and shall not adopt any dilatory tactics to delay the enquiry proceedings.

8. This Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government
Union of India
Ministry of Home Affairs
New Delhi.

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5.The Commandant
Central Industrial Security Force
RTC Arakkonam
Vellore District-631 152.

+1 cc to M/s.M.Md.Ibrahim Advocate,sr.41613

+1 cc to Mr.K.Raju, Advocate,sr.41386.

ctk(co)
krd 4/8

W.P.No.25379 of 2016



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