

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.2.2016

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.2970 of 2016
and
WMP.Nos.2454 and 2455 of 2016

A.Rani

.. Petitioner

vs

1. The Additional Chief Secretary
Commissioner of Revenue Administration
Chepauk, Chennai-5.
2. The District Collector
Namakkal District.
3. The District Revenue Officer
Collector's Office
Namakkal District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the third respondent vide proceedings No.Roc.25269/2010/A2 dated 06.12.2010; to quash the same and consequently accord the petitioner's promotion to the post of Deputy Tahsildar in the year 2013.

For Petitioner : Mr.S.Vijayakumar

For Respondents: Mr.S.Gunasekaran
Government Advocate

O R D E R

This writ petition has been filed Tmt.Rani, seeking for the issuance of a writ of certiorarified mandamus to quash the charge memo issued by the third respondent in No.Roc.25269/2010/A2 dated 06.12.2010 alleging serious misconduct on the ground that the petitioner had failed to handover the files to her successor.

2. Mr.S.Vijayakumar, learned counsel appearing for the petitioner would submit that while she was serving as an Assistant, she was issued with the charge memo dated 06.12.2010

with an allegation that there is a failure on her part to handover the files to her successor for which, she submitted a representation to the third respondent dated 22.12.2010 seeking certain documents referred to in the charge memo for the period 2009-2010 in order to give effective representation. Finding no response, the petitioner sent one more reminder on 14.01.2011 to the third respondent seeking the relevant documents reiterating her request. But the third respondent, all of a sudden ignoring her above two representations, appointed an Enquiry Officer on 14.01.2011 informing the petitioner to submit her explanation to the Enquiry Officer. The second respondent sent a communication to the petitioner on 21.01.2011 asking the petitioner to approach the Enquiry Officer for perusal of the documents in order to submit her explanation. Subsequently, the Enquiry Officer also sent a letter on 01.02.2011 asking the petitioner to submit her explanation. Since the petitioner was not furnished with the documents referred to by the disciplinary authority in the charge memo dated 06.12.2010 for which she has been waiting after sending various representations, the petitioner once again sent another letter dated 11.02.2011 requesting the third respondent to furnish the documents reiterating the importance of the same for submission of her explanation. However, the Enquiry Officer on 22.02.2011 issued a letter to the petitioner to visit his office on any working day to peruse the records. Immediately, thereafter, the petitioner went to the office and was able to peruse only the personal register, but the other documents, which are essential were not available. In the meanwhile, the Enquiry Officer was changed on 30.08.2011 and again after a span of five months on 02.02.2012, another Enquiry Officer was appointed to enquire into the matter.

3. In this background, the grievance of the petitioner before this Court is that it is her admitted case that some of the important documents relied on by the respondents in the charge memo dated 06.12.2010 were not served till date. The Enquiry officer, all of a sudden without even informing about the holding of enquiry, behind her back submitted his report on 09.08.2012. On receipt of the said enquiry officer's report, the third respondent issued the second show cause notice calling upon the petitioner to submit her explanation before awarding the punishment. In view of the aforementioned peculiar circumstances of the case, the petitioner was constrained to file W.P.No.1630 of 2013 seeking a direction for furnishing of all the documents in respect of the charge memo dated 06.12.2010. The said writ petition was filed before the Madurai Bench of this Court and the learned Judge, considering the limited prayer made by the petitioner, passed an order on 10.09.2013 directing the District Revenue Officer, Namakkal to either furnish copies of the documents or to permit the petitioner to peruse the documents, which are going to be used

against her during the enquiry. In addition to that, this Court has further given a direction to the Enquiry Officer that after perusal of the documents by the petitioner or subject to the copies of the documents being furnished to the petitioner, the Enquiry officer shall proceed with the enquiry.

4. Learned counsel for the petitioner, drawing the notice of this Court to the said direction would submit that immediately after receiving the said order, the petitioner has sent one more letter on 02.12.2013 to the third respondent enclosing a copy thereof to comply with the direction mentioned in the aforesaid order. Ironically, till date, neither the request made by the petitioner to furnish copy of the documents mentioned in the charge memo has been furnished nor the order passed by this Court has been complied with. Therefore, he would pray for quashing of the very charge memo itself and consequently to direct the respondents to accord promotion to the petitioner to the post of Deputy Tahsildar in the year 2013.

5. Mr.S.Gunasekaran, the learned Government Advocate appearing for the respondents brought to the notice of this Court the proceedings of the second respondent dated 14.08.2014 wherein it has been mentioned that permission has been given to the petitioner to peruse the relevant documents as per the order passed by this Court in W.P.No.1630 of 2013 dated 10.09.2013. Therefore, according to the learned Government Advocate the prayer made by the petitioner that the entire charge memo has to be quashed, is far from acceptance since there is no violation of principle of natural justice.

6. I find merit in his submission. The reason is that the petitioner went before the Madurai Bench of this Court seeking a mandamus directing the first respondent therein, viz., the District Revenue Officer, Namakkal to furnish all the documents particularly, the relevant files by way of xerox copies or permit the petitioner to peruse the same and this Court vide order dated 10.09.2013, while allowing the writ petition No.1630 of 2013 directed the authority to either permit the petitioner to peruse the documents required or furnish copies of the same with a further direction that after perusal of the same by the petitioner, the Enquiry Officer shall proceed with the enquiry. Therefore, if for any reason, the said order even slightly has not been complied with by the respondents, it is imperative on the part of the petitioner to approach this Court for appropriate relief then and there without any loss of time, which he has failed to do so till now.

7. Therefore, this Court is not inclined to accede to the prayer for quashing the very charge memo itself dated 06.12.2010 issued by the third respondent.

8. At this juncture, the learned counsel for the petitioner brought to the notice of this Court the memo dated 13.2.2016 filed by the petitioner seeking copies of the following documents for the purpose of submission of explanation to the charge memo.

"1. 2008-2009-2010 D1 seat personal register of District Adi Dravidar Welfare Office, Namakkal.

2. 2008-2009-2010 D1 seat distribution register of District Adi Dravidar Welfare office, Namakkal.

3. 2008-2009-2010 D5 seat personal register of District Adi Dravidar Welfare office, Namakkal.

4. 2008-2009-2010 D5 seat distribution register of District Adi Dravidar Welfare office, Namakkal.

5. Report pertaining to the enquiry held by the District Adi Dravidar Welfare office, Namakkal, in respect of Sathuragiri Institute of Catering Technology and Hotel Management, for the year 2009-2010, and Pandian Institute of Industrial School of Management, Namakkal for the year 2009-2010 respectively."

9. Since the above documents are all referred to in the charge memo dated 06.12.2010, the respondents are hereby directed to furnish all those documents to the petitioner within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the petitioner is directed to submit her explanation within a period of three weeks thereafter.

10. Mr.S.Gunasekaran, the learned learned Government Advocate appearing on behalf of the respondents submitted that the entire Departmental Proceedings would be completed within a period of three months from the date of receipt of explanation from the petitioner.

11. The said submission is recorded.

The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Secretary
Commissioner of Revenue Administration
Chepauk, Chennai-5.
2. The District Collector
Namakkal District.
3. The District Revenue Officer
Collector's Office
Namakkal District.

W.P.No.2970 of 2016
and
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cnr (CO)
srg (04/04/2016)

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