

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.30284 of 2016
and
WMP.No.26276 of 2016

V.Ambigavathi

... Petitioner

Vs.

1. Principal District Judge
(Disciplinary Authority)
Namakkal District, Namakkal

2. Sub Judge
(Disciplinary Officer)
Namakkal

3. Sessions Judge/Enquiry Officer
Fast Track Mahila Court
Namakkal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent dated 26/08/2016 in the application filed by the petitioner for recalling prosecution witnesses and for production of documents and quash the said orders and consequently direct the 3rd respondent to afford adequate, fair and reasonable opportunity to the petitioner for further cross examination of prosecution witnesses and also direct production of documents.

For Petitioner : Mr.K.M.Ramesh

For Respondents : Mrs.A.Srijayanthi,
Special Government Pleader

O R D E R

(Order of the Court was made by HULUVADI G. RAMESH, J.)

Heard Mr.K.M.Ramesh, learned counsel for the petitioner and Mrs.A.SriJayanthi, learned Special Government Pleader, accepting notice for respondents 1 to 3.

2. The petitioner, while working as Deputy Nazir in Sub Court, Rasipuram, was issued with a memo dated 25.02.2016, alleging that she had prepared a false bill in respect of one Thiagarajan, a retired employee for an amount of Rs.2805/- and sent it to Treasury on 21.01.2015. The petitioner submitted her reply dated 01.03.2016, wherein, she denied having sent Form 47 for signature. By order dated 15.03.2016, the 2nd respondent placed the petitioner under suspension. Thereafter, on the petitioner's request dated 04.06.2016 seeking to revoke the suspension, the 2nd respondent issued a Charge Memo dated 15.06.2016 containing two charges. The 3rd respondent was appointed as Enquiry Officer to conduct Departmental Enquiry and thereafter, enquiry was conducted as 03.08.2016, wherein, Prosecution Side Witness was examined and closed.

3. The petitioner/delinquent filed two applications dated 28.06.2016, praying for documents to be produced at the hearing date and also for recalling the witnesses who have been examined on the side of the Disciplinary Authority for further cross examination. However, the 3rd respondent by orders dated 26.08.2016 stated that the delinquent side had already cross examined the department side witness in detail and thus, rejected the application for recalling of department side witnesses and also rejected the prayer for production of entire records.

4. It may not be out of place to mention herein that at the request of the petitioner, we are inclined to grant one more opportunity to her to substantiate her stand in the Enquiry Proceedings. Accordingly, the impugned orders dated 26.08.2016 passed by the Enquiry Officer are set aside and thereby we extend an opportunity of further cross examination to the petitioner. We further direct the 3rd respondent to recall PWs 1 and 2 for further cross examination by the delinquent side. At the same time, as held by the Enquiry Officer, the delinquent shall be permitted to peruse entire records relied by the Department Side.

5. The Writ Petition is ordered accordingly. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Principal District Judge
(Disciplinary Authority)
Namakkal District, Namakkal
2. The Sub Judge
(Disciplinary Officer)
Namakkal
3. The Sessions Judge/Enquiry Officer
Fast Track Mahila Court
Namakkal.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.49356
+1cc to the Government Pleader, S.R.No.49816

Writ Petition No.30284 of 2016

MP II(CO)
CA(02/09/2016)

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