

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 12.2.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P. No.5301 of 2016

N.Rajalakshmi ... Petitioner

versus

The Registrar General,
High Court, Madras,
Chennai 104 ... Respondent

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorari to call for the proceedings bearing Roc.No.649/2013/VC dated 25.9.2015, passed by the respondent and consequential order passed in Roc.No.649/2013/VC dated 17.12.2015 by the respondent and to quash the same.

For petitioner : Mr.P.Wilson, Senior Counsel,
for Mr.K.J.Saravanan

O R D E R

(made by K.K.SASIDHARAN, J.)

The challenge in this Writ Petition is to the charge memo issued to the petitioner vide proceedings dated 17 December 2015.

2. The respondent issued a show cause notice to the petitioner calling upon her to respond with regard to the allegations made therein. Since the explanation was not found satisfactory, the respondent initiated disciplinary proceedings. The respondent framed charges under rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules. The initiation of inquiry is under challenge in this Writ Petition.

3. The learned Senior Counsel for the petitioner contended that there is no evidence to substantiate any of the charges and as such, it would be a futile exercise to direct the petitioner to face the inquiry proceedings. According to the learned Senior counsel, the respondent was expected to arrive at a prima facie finding before initiating disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules. Since no such attempt was made and the charges are flimsy, the charge memo is liable to be quashed.

4. The respondent vide official memorandum dated 10 February 2015, called for an explanation from the petitioner with respect to certain allegations. The petitioner appears to have submitted her explanation. Thereafter, show cause notice was issued to her on 25 September 2015 as to why charges under Tamil Nadu Civil Services (Discipline and Appeal) Rules should not be framed against her. Since reply given by the petitioner was not found satisfactory, the respondent issued the impugned charge memo.

5. The petitioner wanted this Court to scan the materials at this point of time to arrive at a finding as to whether there are materials to frame the charge memo. It is the primary responsibility of the respondent to prove the charges framed against the petitioner. The respondent has not passed any adverse orders against the petitioner so as to give her a cause of action to challenge the charge memo.

6. The Supreme Court in *Anant R. Kulkarni v. Y.P. Education Society*, (2013) 6 SCC 515, observed that a charge sheet or show cause notice issued in the course of disciplinary proceedings cannot ordinarily be quashed by Court.

The Supreme Court said:-

17. The purpose of holding an enquiry against any person is not only with a view to establish the charges levelled against him or to impose a penalty, but is also conducted with the object of such an enquiry recording the truth of the matter, and in that sense, the outcome of an enquiry may either result in establishing or vindicating his stand, and hence result in his exoneration.

7. We are of the considered view that there is absolutely no merits in the Writ Petition. It is open to the petitioner to face the enquiry and produce materials to substantiate her contention that she has not committed the misconduct in question.

8. In the upshot, we dismiss the Writ Petition. No costs. Consequently, WMP No.4639 of 2016 is also dismissed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To
The Registrar General,
High Court, Madras,
Chennai 104

+1cc to Mr.K. J. Saravanan, Advocate, S.R.No.9105
+1cc to Mr.S. Arunkumar, Advocate, S.R.No.10940

CTK(CO)
EU(15/03/2016)

W.P. No.5301 of 2016

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