

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.9674 of 2016
and W.M.P.Nos.8684 and 8685 of 2016

R.Sundarasamy

... Petitioner

Vs.

1. The Union of India,
rep.by its Secretary to Government,
Ministry of Home Affairs,
New Delhi - 110 001,
 2. The Director General,
Central Reserve Police Force,
Head Quarters,
CGO Complex, Lodhi Road,
New Delhi - 110 003,
 3. The Inspector General of Police,
Central Reserve Police Force,
Southern Sector,
Road No.10-C, Gayathri Hills,
Near MLA/MP's Colony,
Jubilee Hills, Hyderabad - 500 033,
Andhra Pradesh
 4. S.Elango,
Deputy Inspector General of Police,
Central Reserve Police Force,
Group Centre, Avadi,
Chennai - 600 065.
- .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorarified mandamus to call for the records relating to the Order passed by the 4th respondent in his order No.P.VIII.1/2016-EC-2, dated 22.01.2016, Memorandum No.P.VIII.2/2016-EC-2-GC AVD, dated 20.02.2016, Memorandum No.P.VIII.3/2016-EC-2-GC AVD, dated 20.2.2016, Letter No.P.VIII.2/2016-EC-2-GC AVD dated 04.03.2016, Letter No.P.VIII.3/2016-EC-2-GC AVD dated 04.03.2016, Office Order No.P.VIII.2/2016-EC-2-GC AVD, dated 10.03.2016 and Office Order No.P.VIII.3/2016-EC-2-GC AVD, dated 10.03.2016 and quash the same and to direct the respondents 1 to 3 to appoint the Disciplinary Authority and Enquiry Officer from the other sector Central Reserve Police Force.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.V.P.Senkottuvel,
Special Central Govt.
Standing Counsel

ORDER

The petitioner - Mr.R.Sundarasamy, aggrieved by the issuance of charge memo, has come to this Court on three grounds - firstly, learned counsel for the petitioner assailed the impugned orders inter alia contending that the respondent - disciplinary authority having issued the charge memo, without even furnishing the relevant documents referred to in the charge memo, which are crucial for the petitioner to submit effective explanation, proceeded to hold the enquiry, which is unacceptable in the eye of law. Secondly, it is submitted that when the petitioner has not even submitted his explanation, ignoring the relied upon documents, the respondent - disciplinary authority, without receipt of the explanation, had wrongly appointed an Enquiry Officer pre-judging the issue that the explanation, which will be submitted in due course of time by the petitioner, would not be satisfactory. Which is also not permissible in law. Thirdly, it is contended that the charge memo issued is vague.

2. Mr.Sengottuvel, learned counsel appearing for respondents 1 to 3, after getting instructions, submitted that there are certain documents, which could not be made known to public. Therefore, there was a little hesitation from the respondents to furnish all the documents sought for by the petitioner under the decision of Government of India. Proceeding further, while meeting the contention raised on behalf of the petitioner that the respondents are proceeding non-stop with the enquiry proceedings without furnishing the documents to the petitioner, he would submit that when time has been fixed for submitting explanation, the petitioner has not come forward to give his explanation, as a result, the respondents presumed that the petitioner has no explanation and on this basis, the Enquiry Officer has been appointed. However, he has submitted that if a direction is issued to the respondents to furnish the documents relied upon in the charge memo or in the enquiry, the same would be duly complied, but till then, the Enquiry Officer should be kept in abeyance.

3. This Court is not inclined to accept the above said submission made by the learned counsel for the respondents. The reason is that not only must justice be done, but it must also be seen to be done. As a matter of fact, the procedure for holding the disciplinary enquiry shows that a charge memo has to be issued first calling for explanation from the delinquent.

On receipt of the explanation offered by the delinquent to the

charge memo, if the disciplinary authority is not satisfied, then only they can proceed to appoint an Enquiry Officer.

4. In the present case, when the request of the petitioner to furnish the documents relied upon in the charge memo has not been answered, the respondent ought not to have appointed an Enquiry Officer. Therefore, the order appointing the Enquiry Officer stands cancelled. This apart, the respondents are directed to furnish all the six documents relied upon by the respondents and mentioned in the charge memo within a period of one week from the date of receipt of a copy of this order. Thereafter, the petitioner shall submit his explanation within a period of two weeks thereafter. Subsequently, it is for the respondents to consider the same and if need be to proceed with the matter.

5. With this observation, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

usk
To

1. The Secretary to Government,
Ministry of Home Affairs,
Union of India,
New Delhi - 110 001,
2. The Director General,
Central Reserve Police Force,
Head Quarters,
CGO Complex, Lodhi Road,
New Delhi - 110 003,
3. The Inspector General of Police,
Central Reserve Police Force,
Southern Sector,
Road No.10-C, Gayathri Hills,
Near MLA/MP's Colony,
Jubilee Hills, Hyderabad - 500 033,
Andhra Pradesh
4. The Deputy Inspector General of Police,
Central Revenue Police Force, Group Centre,
Avadi, Chennai.

+1cc to Mr.A.S. Mujibur Rahman, Advocate, S.R.No.18244
+1cc to Mr.V. P. Sengottuvel, Advocate, S.R.No.18276
SVI(CO)
EU(13/04/2016)