



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2016

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THE HONOURABLE **MR. JUSTICE T. RAJA**

W.P(MD) .No.14242 of 2016

and

W.M.P (MD) No.10557 of 2016

K.Chellaiah

... Petitioner

Vs.

1.The Joint Director,
Kallar Reclamation Office,
District Collectorate Buildings,
Madurai City.

2.The Commissioner,
O/o the Most Backward and
Denotified Community Welfare Office,
Chepakkam, Chennai -5.

3.The District Collector,
O/o the District Collectorate,
Madurai City.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the impugned order passed by the first respondent in the charge memo dated 20.07.2016 in Na.Ka.No.H.10/59955/2014 and quash the same.

For petitioner : Mr.N.S.Ponnaiah

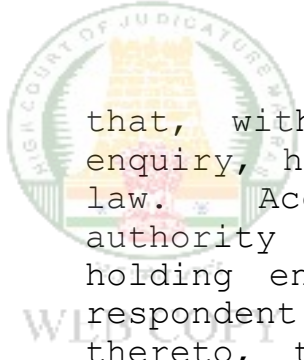
For respondents : Mr.R.Anandharaj

Govt. Advocate

ORDER

The petitioner herein, who is working as Cook in the Government Students Hostel attached to Kallar Reclamation Higher Secondary School, Chekkanoorani, has been issued with a charge memo, questioning which, he has filed this writ petition raising various grounds.

2. Mr.N.S.Ponnaiah, learned counsel appearing for the petitioner, would submit that on an earlier occasion, when the petitioner was dismissed from service, by an order, dated 27.06.2015, for the same charge, he challenged the said order, by filing an appeal before the appellate authority, taking a ground



that, without issuing any charge memo or without holding an enquiry, he was dismissed from service, which mode is unknown to law. Accepting the case of the petitioner, the appellate authority had set aside the order of dismissal passed without holding enquiry and allowed the appeal by directing the first respondent to re-instate the petitioner into service. Pursuant thereto, the petitioner has been re-instated and while he is serving now, he has been issued with the impugned charge memo with the same allegations, for which, he was earlier dismissed from service, and also adding some more allegations which only show that the respondents are totally biased against the petitioner. The impugned charge memo issued with *mala fide* intention may be set aside, by this court, he pleaded.

3. But, this Court is not able to find any merit in this writ petition. The reason is that when the petitioner was earlier dismissed from service without holding enquiry, on his appeal before the second respondent, the said dismissal order was set aside, directing the first respondent to reinstate the petitioner into service with a specific direction that if, for any reason, the petitioner is liable to be proceeded with departmentally, a proper and detailed enquiry should be held in the manner known to law, and a final decision shall be taken only after issuing charge memo and after holding the enquiry by giving a reasonable opportunity to the petitioner. Only in the light of the said direction issued passed by the appellate authority, the present charge memo came to be issued, therefore, it is for the petitioner to give his explanation to the charge memo in order to prove that the charges are baseless.

4. Further, the Hon'ble Supreme Court and this Court time and again held that charge memo or show cause notice cannot be quashed in threshold, as it is not a final order to be challenged, therefore, this writ petition is not maintainable. Since the time given to the petitioner to submit his written explanation stood expired, two weeks time from the date of receipt of a copy of this order is hereby granted to him to submit his explanation. The disciplinary authority shall receive the petitioner's explanation to be made within two weeks as stated above and thereafter, the matter may be proceeded further, in the manner known to law, within two weeks, thereafter.

5. With the above directions, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AE)

/True copy/



To

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2.The Commissioner,
O/o the Most Backward and
Denotified Community Welfare Office,
Chepakkam, Chennai -5.

3.The District Collector,
O/o the District Collectorate,
Madurai City.

+1 CC to Mr.N.S.PONNAIAH, Advocate, SR No.42479

+1 CC to SPECIAL GOVERNMENT PLEADER, SR No.42920

W.P (MD) .No.14242 of 2016

08.08.2016

skn

SH/DB:15.09.2016:3P/6C