

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.8195 of 2017

V.Kumar

.. Petitioner

Vs

Deputy Commissioner (works),
Greater Chennai Corporation,
General Department,
Rippon Building, Park Town,
Chennai - 600 003.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records on the file of the respondent herein and charge memo GDC No.E4/8210/2008, dated 21.03.2017 and quash the same and pass such further orders.

For petitioner : Mr.M.Ravi

For Respondents : Mr.K.Venkataramani, AAG
Assist. By Mr.G.Anantharangan

O R D E R

While serving as Assistant Executive Engineer, the petitioner herein was issued with a Charge Memo dated 19.06.2013 under Rule 9(2) of the Madras Corporation Class III and IV Services (Discipline and Appeal) Bye-laws, 1983. Again, he had received the proceedings dated 09.09.2014 of the Commissioner, Corporation of Chennai, in TDP.Case No.19 of 2014, with the following charge:

"That you (Accused Officer) being a public servant and while employed as Junior Engineer in Corporation of Chennai, during the period between 01.09.1996 and 31.12.2007, you (Accused Officer) were in possession of assets and pecuniary resources of properties as detailed in the statements I to IV to the extent of Rs.46,36,888.45/- (Rupees Forty six lakhs thirty six thousand eight hundred and eighty eight and forty five paise only) either in your (Accused

Officer's) name or in the name of your (Accused Officer's) wife Tmt.K.Sumathi and family members which are disproportionate to your (Accused Officer's) and to your (Accused Officer's) wife and family members known sources of income and for the possession of which you (Accused Officer) could not satisfactorily account for and thereby you (Accused Officer) have committed grave official misconduct, misdemeanor and have failed to maintain absolute integrity and devotion to duty and violated Rule 20 of the Madras Corporation Servants Conduct Rules, 1968."

2. Subsequent to the above, an enquiry was conducted relating to the Charge Memo dated 19.06.2013 and final orders were passed therein on 12.08.2015 dropping the charges. However, as there was no progress in the TDP proceedings, the petitioner had preferred Writ Petition No.3106 of 2017, seeking a direction to finalize the said TDP proceedings and this Court, by orders dated 08.02.2017, directed the third respondent therein to conclude the said TDP proceedings within a period of ten weeks. Whiles, he was once again issued with yet another Charge Memo dated 21.03.2017 on the very same set of allegations as mentioned in TDP. Case No.19/2012, dated 09.09.2014, and the said Charge Memo is challenged in this present writ petition.

3. Having regard to the aforementioned peculiar circumstances of the case, when the matter was taken up on 13.04.2017, this Court directed the Deputy Commissioner (Works) to appear before the Court to explain as to whether he applied his mind before issuance of the impugned charge memo and also for wasting the time of the department and that of this Court.

4. Pursuant to such direction, Mr.K.S.Kandasamy, I.A.S., Deputy Commissioner (Works), Greater Chennai Corporation, appeared today and, on instructions, learned Additional Advocate General submitted that the respondent has inadvertently issued the impugned charge memo. As a matter of fact, after the completion of the disciplinary proceedings before the Tribunal, a report has already been sent to the Government to pass final orders. It is at this stage, a mistake had occurred and the above-said authority has also undertaken to withdraw the impugned charge memo with liberty to proceed on the basis of the order going to be passed by the Government on the Report submitted in the disciplinary proceedings.

5. Since it has been repeatedly stated before this Court that the respondent has inadvertently issued the impugned charge memo without taking proper instructions from the higher authority and also undertaken to withdraw the impugned charge memo, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

To

Deputy Commissioner (works),
Greater Chennai Corporation,
General Department,
Rippon Building, Park Town,
Chennai - 600 003.

+1cc to Mr.Ravi, Advocate, S.R.No.25795

+1cc to Mr.Anantharangan, Advocate, S.R.No.24935

MP (CO)
RS (05/05/2017)

W.P.No.8195 of 2017

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