

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No. 4035 of 2014 and MP.Nos.1 and 2 of 2014

P.Thulasingham

.... Petitioner

Vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

2.The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein in his impugned proceeding No.D2/1599/2010/M dated 13.09.2013 and quash the same and consequently direct the respondents herein to grant further time so as to complete higher qualification of MEO Class-III (NCV) which includes 2nd engineer and Chief Engineer.

For Petitioner : Mr.K.Raja

For Respondents : Mrs.Hajamohideen Gisthi

O R D E R

The Charge Memo dated 13.09.2013 is sought to be challenged.

2. The charges against the writ petitioner are as follows:
Statement of article of charges framed against
Shri.P.Thulasingham, Greaser.

ARTICLE-I

"That he has not reported for duty from 02.06.2012 after expiry of EOL of 18 months granted to him based on his request to acquire sea service knowledge in order to apply for higher competency certificate MEO (Class-III) [NCV]. Despite of direction given to him to join duty on 02.06.2012 vide this office memo No.E1/3458/2010/M dated 08.05.2013 and D2/1599/2013/M dated 23.07.2013 duly informing that his request for extension of leave cannot be

considered, he has not reported for duty till date.

The above act of not obeying the official orders and not reporting for duty from 02.06.2012 till date are serious misconduct and attract severe disciplinary action under Sub-Regulation 7,8 and 20 of Regulation 4 of the Madras Port Trust Employees (Conduct) Regulations 1987".

2. On perusal of the charges, this Court is of the view that an enquiry in this regard is necessary and the authorities competent, are bound to conduct the enquiry in accordance with the rules. The writ petitioner has to submit his explanation / objection in relation to charges framed against him and accordingly defend his case before the enquiry proceedings.

3. The charge memo can be challenged by way of writ petition only on limited ground and this Court can entertain the writ petition against the charge memo only on exceptional circumstances and not in routine manner. The charge memo can be challenged, if the same is issued by an incompetent authority, having no jurisdiction or allegation of malafide are raised or if the charge memo is in violation of the statutory rules. Even in case of raising allegation of malafides authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these ground, no writ can be issued against the charge memo. It is left open to the writ petitioner to submit his explanation / objection and defend his case in the manner known to law. This Court cannot adjudicate the merits and demerits of the charges set out in this writ petition and the disciplinary proceedings initiated against the writ petitioner shall be allowed to be completed and the same should reach its logical conclusion. Intermittent intervention in disciplinary proceedings are certainly not preferable. The competent authority initiated the disciplinary proceedings under the rules shall be allowed to continue the same in accordance with law and take decision in the manner known to law.

4. Such being the view of the Court, the grounds raised in this writ petition cannot be considered on merits and no further adjudication is required.

5. In the result, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No Costs.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

2.The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

+1 C.C. to M/S.S.Haja Mohideen Gisthi Advocate SR.NO..73421

W.P.No. 4035 of 2014

VS 01.11.2017



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