

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6950 of 2017
and
WMP Nos.7542 and 7543 of 2017

M.Muthukumar

.. Petitioner

vs.

1.The Secretary to Government,
Home (Transport-II) Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Transport,
Chepauk,
Chennai-600 005.

3.The Deputy Transport Commissioner,
Thanjavur Zone,
Thanjavur.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in connection with the impugned order passed, the petitioner in Memo R No.0742/A1/2014 dated 30.10.2015 and quash the same and direct the respondents 1 to 3 to consider the claim of the petitioner for promotion as PA to RTO at par with his junior and grant him all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader.

O R D E R

A charge memo, dated 30.10.2015, is under challenge in this writ petition.

2. The writ petitioner is now holding the post of Motor Vehicle Inspector (Non-Technical) and during the relevant point of time, when the charge memo was issued, he was working as Superintendent. On account of surprise inspection conducted by the Officials of the Vigilance and Anti-Corruption Department and District Inspection Cell, certain irregularities were found with regard to the maintenance of records by the writ petitioner. The charges were framed and statement of allegations and imputations of misconduct are also issued along with the charge memo. The writ petitioner submitted his explanation, denying the charges and thereafter, an Enquiry Officer was appointed in proceedings dated 31.01.2017. At this stage, the writ petitioner has chosen to file this writ petition, challenging the charge memo.

3. The writ proceedings can be initiated against the charge memo only under exceptional circumstances and this Court also can entertain if the charge memo was issued by an Authority incompetent, without jurisdiction or an allegations of mala fides are raised. Even in case of raising the allegations of mala fides, the authority concerned ought to

capacity. In the absence of any of these legal grounds, no writ could be entertained, questioning the validity of the charge memo.

4. In the event of initiation of disciplinary proceedings against a public servant, it should be allowed to reach its logical conclusion. The delinquent is under the obligation to participate in the enquiry and to prove his innocence by producing the documents and adducing evidences and evading of enquiry cannot be allowed by this Court. Intermittent intervention in disciplinary proceedings are to be undertaken cautiously. Any such intervention will certainly cause hindrance to the completion of the disciplinary proceedings against the public servant and it is always pre-condition that all public servants are bound to maintain complete integrity and honesty.

5. In this regard, this Court is of the firm view that the disciplinary proceedings cannot be challenged on flimsy reasons. A concrete legal ground ought to have been established by the delinquent to entertain the writ petition, more specifically, during the course of the disciplinary proceedings. In the absence of any concrete material to establish that the entire disciplinary proceedings are vitiated, this Court will not be in a position to pass any orders, entertaining the writ petition.

6. Such being the principles in respect of challenging of the

S.M.SUBRAMANIAM, J.

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charge memo, this Court is not inclined to consider the grounds raised in this writ petition. However, the Enquiry Officer is appointed in this matter. Thus, it is the duty of the Disciplinary Authority to proceed with the enquiry, by affording all reasonable opportunities to the writ petitioner under the Rules and complete the same without any further delay. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

31-07-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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