

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-09-2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Review Application (Writ) No.472 of 2017

And

WMP No.23740 of 2017

in

W.P.No.13081 of 2016

Dr.V.A.Gunasekaran

... Petitioner

Vs.

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

... Respondent

Prayer: This Memorandum of Review Petition is filed under Order XLVII Rule 2 r/w Section 114 of Civil Procedure Code, against the order passed in WP No.13081 of 2016 dated 19.7.2017.

For Petitioner : Mr.A.Ganesh

For Respondent : Mr.G.Rajagopalan,
Additional Solicitor General of India
Assisted by Mr.P.M.Subramanian.

ORDER

The learned counsel appearing on behalf of the review petitioner brought to the notice of this Court that on the basis of the same set of charges, an enquiry report was submitted on 12.11.2014 and the

Enquiry Officer made a finding that Articles 1, 2 and 3 of the charges are

totally baseless and not proved. In respect of that, a second Enquiry Officer was appointed, who in turn also submitted his report and held that the charges are held not proved against the writ petitioner.

2. However, a third Enquiry Officer is now appointed to conduct an enquiry in the same set of allegations, which is impermissible in law.

3. This fact, regarding all the enquiry reports are brought to the knowledge of this Court, at this point of time and this Court has to examine whether it is permissible under the Regulations framed by the respondent in relation to the conduct of disciplinary proceedings. Thus, the matter requires further enquiry.

4. Mr.G.Rajagopalan, the learned Additional Solicitor General of India, appearing on behalf of the respondent, also made a submission that the Disciplinary Authority, in the event of not satisfying with regard to the manner in which the enquiry is conducted, can order for further enquiry in this regard, into the same allegations, by reopening the enquiry proceedings. In this regard, the Regulations and the Rules are available, since the matter is referred to by the Vigilance Department. It is a case where the petitioner has committed certain serious irregularities and the Vigilance Department also take note of the issue and passed some orders

in this regard.

5. Therefore, this Court is of the view that further examination with regard to the Regulations and the Rules are to be examined. Thus, it is preferable to hear the matter at length and pass a considered order, so as to give a quietus in this matter. Accordingly, the earlier order passed on 19.7.2017 in WP No.13081 of 2016 is set aside and the writ petition is reopened for further hearing in respect of the Regulations and other legal principles. Post the matter for final hearing after two weeks and in the meanwhile, the parties are requested to complete the pleadings.

6. Accordingly, the review application stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

15-09-2017

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Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

To

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

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S.M.SUBRAMANIAM, J.

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