

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16318 of 2015

and

W.M.P.Nos.2 to 5 of 2015 & 16934 of 2016

M.N.Pushpa

... Petitioner

Vs.

1.The Additional Chief Secretary cum
Commissioner,
Directorate of Museum,
Government Museum,
Egmore, Chennai - 600 008.

2.Dr.R.Kannan, I.A.S.,
Commissioner & Additional Chief Secretary,
Directorate of Museum,
Government Museum,
Egmore, Chennai - 8.

3.The Additional Chief Secretary cum
Commissioner for Government of Tamil Nadu,
Tourism, Culture and Hindu Religious Department,
Fort St.George, Chennai - 9.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the first respondent in connection with the impugned charge memos issued by him in Na.Ka.No.423/2015/E2 dated 11.02.2015 and 08.05.2015 and quash the same.

For Petitioner : Mr.K.Venkataramani Senior Counsel
for Mr.M.Muthappan

For Respondents: Mr.K.Dhananjayan
Special Government Pleader

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O R D E R

Heard Mr.M.Muthappan, learned counsel appearing for the petitioner and Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents.

2.The charge memo dated 11.02.2015 and the second show cause notice dated 08.05.2015 are under challenge in this writ petition.

3.The learned counsel appearing for the writ petitioner states that the writ petitioner is working as a Curator in Government Museum, Fairlands, Salem. On account of certain irregularities, the charge memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued to the writ petitioner in proceedings dated 11.02.2015. On receipt of the charge memo, the writ petitioner submitted her explanations/objections to the charges and she denied the same. An enquiry officer was appointed and a domestic enquiry was concluded and the enquiry officer submitted his report and based on the enquiry report, the second show cause notice dated 08.05.2015 was issued directing the petitioner to submit her explanations/objections on the enquiry report. The writ petitioner, instead of submitting her explanations/objections to the second show cause notice, moved this writ petition, challenging both the charge memo as well as the second show cause notice.

4.This Court is of the view that after participating in the process of enquiry proceedings and on receipt of the second show cause notice, on the enquiry report, the writ petitioner cannot challenge the charge memo itself. Further, the disciplinary proceedings initiated shall be allowed to be completed and the same should reach its logical conclusion. Intermittent and intervention in disciplinary proceedings are to be exercised cautiously and Judicial review in this regard is limited and the Courts shall entertain such writ petitions only on exceptional circumstances and not in a routine manner.

5.In the case on hand, the charge memo was issued on 11.02.2015 and the disciplinary authorities also conducted the enquiry without any delay and the same was concluded and the report was submitted on 06.05.2015. On 08.05.2015, the second show cause notice was issued to the writ petitioner seeking her objections to the enquiry report. It is at the instance of the writ petitioner there is a delay in passing the final order, for which, the respondents cannot be blamed. However, the grounds stated in the writ petition for quashing of the charge memo are broadly on merits. It is not for this Court to consider the merits and demerits of the allegations set out in the charge memo and the findings recorded by the enquiry officer in the enquiry report. It is for the disciplinary authority to consider all the materials available on records and to take a final decision on the disciplinary proceedings. Thus, this Court is of the view that at this point of time, the merits of the issue cannot be adjudicated by this Court and the disciplinary authority shall be allowed to complete the enquiry in all respects and pass final orders in this regard.

6.In view of the matter, no further adjudication is required on merits and accordingly, the writ petition stands dismissed. However, liberty is granted to the respondents to consider all the materials available on record and pass final orders in the disciplinary proceedings as early as possible, without any further delay. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Additional Chief Secretary cum
Commissioner,
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Tourism, Culture and Hindu Religious Department,
Fort St.George, Chennai - 9.
- +1 C.C.to Mr.M.Muthappan, Advocate SR.NO.67668.
- +1 C.C. To Spl.Govt.Pleader, SR.NO.67767

GJ (II)
ADD 23.10.2017

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