

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19434 of 2017
and
WMP.No.20958 of 2017

V.G.Manoharan

... Petitioner

Vs.

1. The Managing Director
Tamil Nadu Civil Supplies Corporation
No.12, Thambusamy Road
Kilpauk, Chennai - 600 010.
2. The General Manager (Administration)
Office of the Managing Director
Tamil Nadu Civil Supplies Corporation
No.12, Thambusamy Road
Kilpauk, Chennai - 600 010.
3. The Regional Manager
Tamil Nadu Civil Supplies Corporation
Tirunelveli Region
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari and directing to calling the records relating to the order passed by first respondent in R.C.No.AD6/20427/2016 dated 29.05.2017 and quash the same.

For Petitioner : Mr.R.Ponnusamy

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

The second show cause notice issued on 29.05.2017 in the disciplinary proceedings initiated against the writ petitioner is under challenge in this writ petition.

2.The writ petitioner is holding the post of Quality Inspector in Tamilnadu Civil Supplies Corporation. On account of certain irregularities, the disciplinary authorities initiated disciplinary proceedings against him and the charge memo was issued against the writ petitioner on 28.10.2016. On receipt of the charge memo, the writ petitioner submitted his explanations denying the charges. The enquiry officer was appointed on 28.02.2017. The domestic enquiry was conducted, in which the writ petitioner had also participated. The enquiry officer, by conducting the full fledged enquiry, submitted his report on 26.05.2017.

3.On receipt of the enquiry report, the disciplinary authorities issued the second show cause notice on 29.05.2017, requesting the writ petitioner to submit his explanations/objections on the enquiry report within seven days from the date of receipt of a copy of the show cause notice. The copy of the enquiry report was also enclosed along with the show cause notice. Instead of submitting his explanations / objections, the writ petitioner has preferred a writ under Article 226 of Constitution of India, on the ground that no fair opportunity was provided to the writ petitioner, during the course of enquiry.

4.This court cannot appreciate the fact raised by the writ petitioner that an opportunity was not provided during the relevant point of time, since the same should have been raised before the enquiry authorities by submitting his written objections / letters, in this regard. But no such objection or letter was given at that point of time, instead, the writ petitioner moved this petition before this court, challenging the show cause notice now.

5.The enquiry report was finalized and the show cause notice was issued in order to provide a fair opportunity to the writ petitioner to submit his explanations / objections on the enquiry report. Thus, this court is not inclined to entertain the writ petition at this point of time. It is left open to the writ petitioner to submit his explanations / objections to the show cause notice. The disciplinary authority may consider the facts and materials available on record and is free to pass final orders in the disciplinary proceedings.

6.The show cause notice can be challenged and a writ can be entertained only on exceptional circumstances and not in a routine manner. The show cause notice can be challenged on the ground of no jurisdiction or malafides, not otherwise and adjudication on merits cannot be exercised at this point of time. Since the writ petitioner is challenging show cause

notice. In this view of the matter, no consideration at this stage is to be shown on the grounds raised in this writ petition.

7. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dna/kas

To

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Tamil Nadu Civil Supplies Corporation
Tirunelveli Region
Tirunelveli.

+1cc to M/s.R.Ponnusamy, Advocate, S.R.No.53725

+1cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.54038

W.P.No.19434 of 2017

SSI (CO)
CU (29/08/2017)