

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.8078 of 2016
and
WMP.Nos.7190 & 7191 of 2016

V.Umarani, Assistant

... Petitioner

Vs

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, call for records relating to the impugned charge memo dated 18.10.2013 made in Na.Ka. No.18920/2013/A3 and the consequential memo dated 29.10.2015 made in R.O.C. No.15652/2015/A2 issued by the 1st respondent to quash the same and consequently direct the respondents to place the petitioner in the temporary panel of Deputy Tashildar-2015 with all service benefits and emoluments.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

सतगमेव जयते
O R D E R

Challenging the charge memo dated 18.10.2013 issued by the first respondent, the present writ petition has been filed.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as a Revenue Assistant in the Revenue department on 21.12.2009 and her service was regularized on 22.07.2010. On account of certain allegations, a charge memo was issued by the first respondent vide proceedings dated 18.10.2013 and the charges relates to the irregularities committed by her while dealing with the land revenue matters.

3.The learned counsel appearing for the writ petitioner also made a submission that already the writ petitioner had participated in the departmental disciplinary proceedings and the inquiry was completed and a report was also submitted by the Enquiry Officer in this regard. Thus, the disciplinary authority has to take a final decision on the said disciplinary proceedings.

4.Considering the submissions made by the learned counsel appearing for the petitioner, I am of the view that at this stage, this Court cannot adjudicate the matter on merits and it is left open to the writ petitioner to submit her explanation / objections and defend her case in accordance with rules.

5.The learned counsel appearing for the writ petitioner further submitted that she has challenged the consequential memo dated 29.10.2015 deferring her name for promotion to the post of Deputy Tahsildar. This Court is of the view that the respondents have rightly deferred the petitioner's name on account of the pending disciplinary proceedings. Even as per the Government rules, an employee facing any disciplinary proceedings under Rule 17(b) of the Tamilnadu Civil Services (Discipline & Appeal) Rules cannot be considered for promotion to the higher post.

6.Thus, this court is of the considered view that, after the conclusion of departmental disciplinary proceedings the case of the writ petitioner for promotion may be considered by the competent authority and certainly not during the pendency of the disciplinary proceedings, more specifically under the Rule 17(b) of the Tamilnadu Civil Services (Discipline & Appeal) Rules.

7.The writ petition is filed challenging the charge memo dated 18.10.2013 as well as the consequential memo dated 29.10.2015 in relation to the non-inclusion of name of the petitioner in the panel for promotion of Deputy Tahsildar for the year 2015.

8.Admittedly enquiry proceedings have been completed and the disciplinary authorities have to take a final decision on the disciplinary proceedings and the grounds raised in the disciplinary proceedings regarding merits of charges cannot be adjudicated in view of the facts that the enquiry proceedings are already completed.

9.This court is of the view that no writ can be entertained against the charge memo and a writ proceedings can be entertained only on exceptional circumstances such as the charge memo was issued by the incompetent authority or without jurisdiction or when the allegation of malafides are raised.

Even in the case of allegation of malafides, the authority against whom such an allegation is made has to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds, no writ can be entertained.

10.Only if the charge memo was issued in violation of statutory rules, the writ petition can be entertained in the absence of any legal grounds and no writ proceedings can be entertained in a routine manner.

11.In the case on hand, the grounds raised are with regard to the merits of the charge memo and the learned counsel also made a submission that the charges ought to have been made under Section 17(a) instead of 17(b) of Tamilnadu Civil Services (Discipline & Appeal) Rules. Since the enquiry proceedings have been completed under the procedures as contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, at this point of time, this Court is not inclined to decide the writ petition on merits.

12.Under these circumstances, this Court is not inclined to consider the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS V.)

/true copy/

Sub Asst. Registrar

tkp/maya

To

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The District Revenue Officer,
Dharmapuri District,
Dharmapuri.

+ 1 cc to M/s.Prabakaran, Advocate, SR.64545
+ 1 cc to The Govt.Pleader, SR.64504

W.P.No.8078 of 2016

NR 24/10/2017