

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1030 of 2017
and
C.M.P.Nos.14486 & 16153 of 2017

Krishnaveni Anandan ... Appellant
versus

1.Union of India Rep. by the Secretary
Ministry of Commerce and Industries,
Government of India,
3rd Floor, NDYMCA Cultural Centre Building,
1 Jai Singh Road,
New Delhi - 110 001.

2.The Director and Disciplinary Authority,
Export Inspection Council of India
3rd Floor, NDYMCA Cultural Centre Building,
1 Jai Singh Road,
New Delhi - 110 001.

3.Joint Director,
Export Inspection Agency,
6th Floor, C.M.D.A. Tower II
No.1, Gandhi Irvin Road,
Egmore, Chennai - 600 008.

4.The Director,
Central Vigilance Commission,
Satarkta Bhavan, G.P.O.Complex,
Block A, INA, New Delhi - 110 023.

... Respondents

PRAYER: Appeal filed against the order passed by this Court
dated 28.07.2017 made in W.P.No.19394 of 2017.

WP.NO.19394/2017:

Calling for the records the Impugned Charge Memo in EIC/D
(Q/C)/ Vig/Comp./ KVN/ Nagercoil/ 2016-17 dated 3.3.2017 issued
by the 2nd respondent pursuant to the Order passed by the 4th
respondent in Office Memorandum dated 9.2.2017.

For Appellant : Mrs.Sudharshana Sunder

For Respondents : Mr.G.Rajagopal,
Additional Solicitor General of India
Assisted by
Mrs.Sunitha Kumari,
Central Government Standing Counsel.

J U D G M E N T

(Order of the Court made by R.SUBRAMANIAN,J.)

The appellant challenges the judgment of the learned Single Judge made in W.P.No.19394 of 2017 dated 28.07.2017, in and by which, the Writ Petition challenging the charge memo issued by the 2nd respondent herein dated 03.03.2017 was dismissed.

The brief facts that led to the filing of the Writ Petition are as follows:

2. The appellant joined the service of the Export Inspection Council of India as a Technical Officer in January 2006 and was posted in Fish and Fishery product Inspection Wing. In March 2011 she was promoted as an Assistant Director and was transferred to EIA-Mumbai and posted in Fish and Fisheries Product Division and thereafter in the GSP Section. The petitioner would also narrate various events that happened during her service with the Export Inspection Council of India, with a view to project herself as a person who has been wronged. It appears that the petitioner has also made several complaints to various Authorities against her Superiors including the National Commission for Scheduled Castes. According to the petitioner, the charge memo dated 03.03.2017 was issued to her at her residence in Namakkal for initiating major penalty proceedings against her. The said charge memo was the subject matter of challenge in the Writ Petition.

3. The learned Single Judge who heard the Writ Petition by his order dated 28.07.2017, dismissed the Writ Petition holding that the charges are very serious in nature and the petitioner has not made out a case for quashing the charge memo itself at the threshold. Aggrieved by the said order the appellant has come forward with this intra-Court appeal.

4. We have heard Mrs.Sudharshana Sunder, learned counsel appearing for the appellant and Mr.G.Rajagopal, learned Additional Solicitor General of India for Mrs.Sunitha Kumari, Central Government Standing Counsel for the respondents.

5. Mrs.Sudharshana Sunder, learned counsel appearing for the appellant would contend that the charge memo itself shows that the same has been issued pursuant to the opinion of the Central Vigilance Commission. Therefore, according to M/s.Sudharshana Sunder, the petitioner/ appellant should have been furnished with the recommendation of Central Vigilance Commission.

6. This contention in our opinion is farfetched. The Central Vigilance Commission is only a Consultative Authority and the respondents have only taken the opinion of the Central Vigilance Commission regarding the nature of the proceedings that are to be initiated against the appellant. The basis on which the Central Vigilance Commission forwarded its opinion or the reasons for its opinion need not be furnished to the appellant at the threshold itself. The said contention was also raised before the learned Single Judge and the learned Single Judge, we find has rightly rejected it.

7. M/s.Sudharshana Sunder, learned counsel appearing for the appellant would draw our attention to certain circulars issued by the Central Vigilance Commission in support of her submissions that the appellant should have been furnished the details of the proceedings before the Central Vigilance Commission. Those circulars are only internal circulars which have no statutory force and as such the appellant cannot seek a vested right based on those circulars.

8. As rightly pointed out by the learned Single Judge, the proposed charges against the appellant are very serious in nature and we don't think that the appellant has made out a case for quashing the charge memo. It should be pointed out at this juncture that quashing the charge memo, thereby, scuttling disciplinary proceedings at the threshold is not a matter of routine. The power of judicial review in such cases is very limited and once it is shown that it was within the competence of the Officer who had issued the charge memo, the Courts will not in exercise of the power of judicial review under Article 226 of Constitution of India to quash the same. It is open to the appellant to defend herself in the disciplinary proceedings and if the report of the Central Vigilance Commission is sought to be relied upon by the respondents in support of their claim during the disciplinary enquiry, then it will be definitely open to the petitioner to seek a copy of the same.

9. Hence, we don't find any warrant to interfere with the order of the learned Single Judge dismissing the Writ Petition. This intra-Court appeal therefore fails and is dismissed however

without costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary
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+1cc to Mrs.Sudharshana Sunder, Advocate sr.no.37349

+2cc to Mrs.Sunitha Kumari, CGSC, SR.37547

W.A.No.1030 of 2017

NR 06/07/2018