

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2018

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THE HONOURABLE MR. JUSTICE T. RAJA

W.P. No. 32221 of 2017

&

W.M.P.Nos. 35484 & 35485 of 2017

Mr. Sridhar Rajesh

..Petitioner

Vs.

Inspector General of Registration,
Office of the Inspector General of
Registration,
Chennai - 600 028.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records of the respondent bearing Memo No. 12675/B1/2013 dated 03.11.2016, quash the same and consequently direct the respondent to reconsider the entire matter afresh as per law after granting an opportunity to the petitioner.

For Petitioner :: Mr.Nithyaesh Natraj

For Respondent :: Mr.R.A.S. Senthilvel
Addl. Govt. Pleader

सत्यमेव जयते
O R D E R

This writ petition is directed against the second show cause notice dated 03.11.2016 issued by the respondent calling upon the petitioner to submit his further representation in respect of the charges referred in paragraph No.2 of the impugned notice.

2. Learned counsel for the petitioner, assailing the impugned notice, would submit before this Court that the petitioner was issued with a charge memo under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, containing six charges and refuting the same, the petitioner submitted his detailed explanation on 09.05.2013. Not satisfied

with the explanation, an Enquiry Officer was appointed, who after giving reasonable opportunity to the petitioner, submitted his enquiry report on 30.08.2016 finding the petitioner guilty of charge Nos. 3 and 5 and recommending action against the petitioner. It is the submission of the learned counsel that, thereafter, the Disciplinary Authority has to furnish a copy of the Enquiry Report and ask the delinquent officer to submit his further representation, if any, to the enquiry officer's report, by issuance of second show cause notice and only if he is not satisfied with the further explanation received from the petitioner, should arrive at a final conclusion with regard to imposition of penalty. However, without resorting to such a course, the Disciplinary Authority, by the impugned notice, while calling upon the petitioner to submit his further representation to the report of the Enquiry Officer, enclosed therein, had stated that he is in full agreement with the findings of the Enquiry Officer, which according to the learned counsel for the petitioner, speaks volumes about the pre-determined mind of the Disciplinary Authority and therefore, asking the petitioner to submit his further representation to the enquiry report appears to be only an empty formality. Hence, the learned counsel seeks to quash the impugned show cause notice and for a consequential direction to the respondent to reconsider the entire matter afresh as per law after granting an opportunity to the petitioner.

3. This Court finds merit in the submission of the learned counsel for the petitioner, the reason being that in paragraph No.2 of the impugned notice dated 03.11.2016, it is stated as follows:

"2. On a careful consideration of the report of the Inquiry Officer aforesaid, the Inspector General of Registration agrees with the findings of the Inquiry Officer and holds the charge as proved with respect to charge 3 & 5."

This method of approach is totally unknown to service jurisprudence. When the petitioner is yet to submit his further representation to the report of the Enquiry Officer, the Disciplinary Authority ought not to have stated so. Perhaps, the officer is not proficient of the basics of Service Law. Be that as it may, the second show cause notice impugned herein clearly indicates the pre-determined mind of the Disciplinary Authority even before receiving further representation from the delinquent officer to the report of Enquiry Officer.

T. RAJA, J.

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4. Learned Additional Government Pleader appearing for the respondent also finds it difficult to sustain the impugned notice and submitted that without furnishing a copy of the report of the Enquiry Officer, the Disciplinary Authority should

not have formed any opinion.

5. In such view of the matter, the impugned notice dated 03.11.2016 is hereby quashed and the respondent is given liberty to issue a fresh second show cause notice calling upon the petitioner to submit his further explanation to the report of the Enquiry Officer within a period of two weeks from the date of receipt of the notice and after receipt of the further explanation from the petitioner to the report of the Enquiry Officer, the Disciplinary Authority is at liberty to proceed further and pass appropriate orders in the manner known to law. The writ petition is allowed to the extent as indicated above. No costs. Connected W.M.Ps are closed.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

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To

The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai - 600 028.

+2cc to Mr.Nithyaesh and Vaibhav, Advocate SR.No.56
+1cc to Government Pleader SR.No.218

W.P. No.32221 of 2017

LRS (CO)
GN(05/02/2018)

सत्यमेव जयते

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