

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34397 of 2017

J.J.Sahayaseelan

.. Petitioner

-vs-

1. The Principal Secretary to Government
Industries (E1) Department
Secretariat, Fort St.George
Chennai 600 009
 2. The Additional Chief Secretary to Government (FAC)
Industries (E1) Department
Secretariat, Fort St.George
Chennai 600 009
 3. The Commissioner of Geology and Mining
Guindy
Chennai 600 032
- ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to impugned Charge Memo in Letter No.11295/E-1/2016-3 dated 25.11.2016 to quash the same and consequentially direct the respondents to permit the petitioner to retire from services of the respondents with all attendant terminal benefits including interest for the said sums from the date of attaining superannuation till date of payments by the respondents.

For Petitioner :: Mr.N.Nithianandam

For Respondents :: Mr.V.Kathirvelu
Special Government Pleader

ORDER

This writ petition is directed against the impugned charge memo dated 25.11.2016 on various grounds. One of the grounds taken by the petitioner shows that the petitioner has been proceeded with departmentally with a mala fide intention, leaving all other responsible superior officers. This apart,

when the petitioner also was issued with one another belated charge memo for the incident that took place 16 years ago, he had filed W.P.No.44445 of 2016 and the same is also pending. In view of the challenge made to the previous charge memo, the present charge memo has been issued. That also clearly shows the mala fide attitude of the employer, it was pleaded.

2. But, this Court still finds it difficult to interfere with the impugned charge memo, for two reasons. Firstly, when the charge memo was issued one year ago on 25.11.2016, if the petitioner is aggrieved, he should have challenged the same then and there, which he has not done. Rather he has given his explanation denying the charges and thus, has submitted to the jurisdiction of the disciplinary authority. In view thereof, the petitioner cannot come to this Court and he should wait for the decision to be taken by the enquiry officer followed by the disciplinary authority. Secondly, the petitioner has also not been permitted to retire from service on reaching the age of superannuation on 31.8.2016, but retained in service until completion of the said enquiry. Moreover, it is well settled by the Apex Court in the case of Union of India and another v. Kunisetty Sathyanarayana, (2006) 12 SCC 28 that no Court shall interfere with the charge memo. As the issuance of charge memo or show cause notice is not a final proceeding, this Court is not inclined to entertain the writ petition. However, taking note of the factor that the petitioner has not been permitted to retire from service on reaching the age of superannuation on 31.8.2016 and he has also submitted his explanation to the charges, the second respondent is hereby directed to dispose of the pending disciplinary proceedings on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order, so that the petitioner will be able to vindicate his stand, which will be equally good for the department also. With this observation, the writ petition stands dismissed. Consequently, W.M.P.No.38230 of 2017 is also dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS-IX)

WEB COPY

//True Copy//

Sub Assistant Registrar

ss

To

1. The Principal Secretary to Government
Industries (E1) Department
Secretariat, Fort St.George
Chennai 600 009
2. The Additional Chief Secretary to Government (FAC)
Industries (E1) Department
Secretariat, Fort St.George
Chennai 600 009
3. The Commissioner of Geology and Mining
Guindy
Chennai 600 032

+1cc to the Government Pleader, S.R.No. 2401
+1cc to Mr.N.NITHIANANDAM, Advocate, S.R.No. 1906

W.P.No.34397 of 2017

KJI (CO)
TR(30/01/2018)



WEB COPY