

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 27411 of 2014 & M.P. 1 of 2014,
W.P. 27412 of 2014 & M.P. 1 of 2014
and
W.P. 27413 of 2014 & M.P. 1 of 2014

W.P. 27411 of 2014

R.Saravanan

... Petitioner

Versus

The Commissioner for Disciplinary
Proceedings,
Kuralagam,
Chennai-600 108.

...Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records to quash the proceedings in No.Rc.A1/1841/2010 dated nil.09.2014 signed on 26.09.2014 on the file of the respondent, calling the petitioner to attend enquiry in TDP Case No.28/2010 on 11.09.2013.

W.P. 27412 of 2014

R.Saikumar

... Petitioner

Versus

The Commissioner for Disciplinary
Proceedings,
Kuralagam,
Chennai-600 108.

...Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records to quash the proceedings in No.Rc.A1/1841/2010 dated nil.09.2014 signed on 26.09.2014 on the

file of the respondent, calling the petitioner to attend enquiry in TDP Case No.28/2010 on 11.09.2013.
W.P. 27413 of 2014

P.Murugesan

... Petitioner

Versus

The Commissioner for Disciplinary
Proceedings,
Kuralagam,
Chennai-600 108.

...Respondent

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records to quash the proceedings in No.Rc.A1/1841/2010 dated 11.09.2014 signed on 26.09.2014 on the file of the respondent, calling the petitioner to attend enquiry in TDP Case No.28/2010 on 11.09.2013.

For Petitioners : Mr.M.S.Soundara Rajan
For Respondent : Mr.R.Govindasamy,
Special Government Pleader

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the respondent calling the petitioner to appear for enquiry.

2.The grievance of the petitioners in both Writ Petitions is that earlier, a disciplinary proceedings was initiated against them, and a charge memo was also issued on 11.05.2011. Thereafter, the matter was referred to the Respondent Tribunal for further enquiry, and the Tribunal by an order dated 11.09.2013 has set aside the disciplinary proceedings. Thereafter, once again, the present notice has been issued by the respondent calling the petitioners to appear for enquiry. According to the petitioners, earlier, when the Tribunal had passed an order setting aside the disciplinary proceedings, the respondent has no power to reopen and resume the enquiry once again. Hence, the present Writ Petition has been filed by the petitioners.

3. Mr.R.Govindasamy, learned counsel appearing for the respondent submitted that, the Tribunal only has power to conduct enquiry, and submit a report before the disciplinary authority for taking further action. Whereas, the Tribunal has set aside the disciplinary proceedings initiated against the petitioners, for which, the Tribunal has no power. Now, on considering the same, the Government passed an order dated

24.06.2014, holding that the Tribunal has no power to set aside the charge memo that too without conducting an enquiry, and passed an order directing the Tribunal to proceed with the enquiry and submit a report. He has also produced the copy of the order passed by the Government to conduct the enquiry as per the procedures laid down in Tamil Nadu Civil Service (Disciplinary Proceedings Tribunal) Rules, 1955.

4. I have considered the rival submissions made by the learned counsel appearing for the petitioners as well as the respondent and perused the records carefully.

5. Considering the fact that, after considering the order passed by the Tribunal dated 11.09.2013, now the Government by an order dated 24.06.2014 has ordered a fresh enquiry, which was not challenged by the petitioner, and I find, there is no illegality in the order passed by the respondent directing the petitioner to appear for enquiry pursuant to the order passed by the Government dated 24.06.2014. Therefore, the petitioners are directed to appear for enquiry before the Tribunal and the Tribunal is directed to conduct enquiry after issuing fresh notice to the petitioner and pass suitable orders after giving opportunity to the petitioners.

6. In the result, the present Writ Petitions are dismissed with the above direction. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpp

To

The Commissioner for Disciplinary Proceedings,
Kuralagam, Chennai-600 108.

+3cc to Mr.M.S.Soundara Rajan, Advocate, S.R.No.86442 to 86444

+1cc to the Government Pleader, S.R.No.86753

W.P. 27411 of 2014
& M.P. 1 of 2014,
W.P. 27412 of 2014
& M.P. 1 of 2014
and
W.P. 27413 of 2014
& M.P. 1 of 2014

KS (CO)

GSP (04/02/2019)