

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1077 of 2016 and
WP.No.21317 of 2015
CMP.No.14020 of 2016

- 1.The Corporation of Chennai
Rep. by its Commissioner,
Rippon Building, Chennai.
 - 2.The Regional Deputy Commissioner (Central)
Office of the Regional Deputy Commissioner Office,
Aminjekarai, Chennai. ...Appellants/Respondents
- Vs
- R.Venkatachalam ...Respondent/Petitioner

Prayer:- Writ Appeal filed under clause 15 of the Letter Patent against the order dated 15.07.2015 in W.P.No.21317 of 2015.

W.P.No.21317 of 2015:-

This Writ petition filed under Article 227 of Constitution of India praying for the issuance of Writ of certiorari calling Calling for the records pertaining to the Charge Memo of the respondent No.2 issued to the petitioner in Ma.A. 10.Na.Ka. No.Aa7/ 2294/2009 dated 29.12.2014 and quash the same.

For Appellants : Mr.S.Saravanan

For Respondents : Mr.R.Srinivas

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J U D G M E N T

(made by K.K. SASIDHARAN,J.)

The charge memo issued by the Corporation of Chennai to the respondent was quashed by the learned single Judge on the ground that the employee was acquitted by the Criminal Court. The order is under challenge at the instance of the Corporation of Chennai.

2. The respondent was working as Park Overseer. He was placed under suspension by order dated 13 March 2009 on account of his involvement in a criminal case. The suspension was revoked after the acquittal of the respondent in C.C.No.105 of 2011. The respondent was reinstated by the Corporation, by order dated 8 December 2004. Thereafter, the Corporation issued a charge memo to the respondent. The disciplinary authority alleged that by involving in a criminal case, the reputation of the Corporation got affected. The respondent submitted his explanation to the charge memo. Thereafter, without giving time to the Corporation to take a decision as to whether further proceedings are necessary, the respondent filed the writ petition. The learned single Judge allowed the writ petition with an observation that in view of the acquittal, the charge has no basis.

3. The respondent has no case that the Commissioner, Corporation of Chennai is not the disciplinary authority. The charge memo was issued only by the disciplinary authority. The respondent was called upon to show cause as to why disciplinary proceedings should not be taken against him. The respondent was expected to submit his explanation to the charges indicated in the charge memo. The respondent in his explanation contended that he was honorably acquitted by the Sessions Court and the judgment was upheld by the High Court. The further question with regard to the initiation of the enquiry would be taken by the Corporation on the basis of materials. The respondent rushed to this Court with a writ petition without even giving breathing time to the Corporation to take a decision in the matter.

4. The disciplinary authority is expected to take a decision as to whether on account of the explanation given by the delinquent, it is necessary to proceed further. The respondent cannot be heard to say that the Corporation would not take a decision on merits taking into account the charge memo and the explanation submitted by him. In case, explanation is satisfactory, the Corporation would not proceed further. However, without giving an opportunity to the Corporation to take a decision in the matter, the respondent filed the writ petition resulting in quashing the charge memo. We are therefore of the view that the learned single Judge was not correct in quashing the charge memo.

5. The order dated 15 July 2015 is set aside. We direct the Commissioner, Corporation of Chennai, to consider the explanation submitted by the respondent to the charge memo and take a decision as to whether further proceedings should be taken in the matter. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

6. The intra court appeal is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

svki

1. The Commissioner,
The Corporation of Chennai
Rippon Building, Chennai.
2. The Regional Deputy Commissioner (Central)
Office of the Regional Deputy Commissioner Office,
Aminjikarai, Chennai.

+1cc to Mr.R.Srinivas, Advocate, S.R.No.6030

W.A No.1077 of 2016

RJ(CO)
CS/07/03/18



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