

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.34817 of 2018

ORDER:

This writ petition is filed seeking to issue a writ of Mandamus declaring the action of the respondents in continuing the disciplinary proceedings against the petitioner pursuant to proceedings Rc.No.K1/1712/2018 dated 2.4.2018 and the show cause notice issued vide Rc.No.K1/1712/2018 dated 10.9.2018 by the 2nd respondent wherein a major penalty was proposed to be imposed even before receipt of explanation on the findings of the enquiry officer's report as being arbitrary, illegal and contrary to the provisions of rule 21 of TSCS(CC&A) Rules, 1991.

Heard Si V.Ravichandran, learned counsel for the petitioner and the learned Government Pleader for Services II.

It is contended by the petitioner that he was placed under suspension on 21.6.2018 on certain alleged irregularities and thereafter the 2nd respondent had issued a charge memo on 2.4.2018 framing two charges. The petitioner had submitted his explanation denying the said charges and not satisfied with the explanation submitted by him, the respondents had initiated disciplinary proceedings and appointed an Enquiry Officer to conduct a detailed enquiry. The respondents had issued show-cause notice on 10.9.2018 enclosing a copy of the enquiry report and also proposing to impose a punishment of stoppage of one increment with cumulative effect and directed the petitioner to

submit his explanation to the proposed punishment. Challenging the same, the present writ petition is filed.

It has been contended by the learned counsel for the petitioner that the enquiry report and show cause notice proposing major penalty were issued on the same day i.e.10.9.2018 and the respondents have violated Rule 21 of the TSPS(CC&A) Rules, 1991 and the disciplinary authority had come to a conclusion even before a copy of the enquiry report is furnished to the petitioner and that no opportunity is given to submit his objections to the enquiry report. Learned counsel for the petitioner further contended that when the disciplinary authority had already come to a conclusion to impose a major penalty, issuing show-cause notice is an empty formality and it violates principles of natural justice.

Learned Government Pleader for Services II contended that the disciplinary authority had not violated any rule and the petitioner was given opportunity and no illegality has been committed by the respondents and the respondents have rightly proposed the punishment.

This Court having considered the submissions made by both the parties is of the considered view that the disciplinary authority ought not to have come to a conclusion of finding the petitioner guilty and proposing to impose a major penalty even before furnishing a copy of the enquiry report.

In view of the above, the impugned show-cause notice issued by the 2nd respondent in Rc.No.K1/1712/2018 dated 10.9.2018 is set aside and liberty is given to the petitioner to submit his explanation to the findings of the enquiry report which was

furnished on 10.9.2018 within a period of four weeks from the date of receipt of a copy of this order and the disciplinary authority is at liberty to proceed against the petitioner in accordance with law without influenced by the impugned show cause notice.

With the above directions, the Writ Petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 01/10/2018
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