

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION NO.39494 OF 2018

ORDER:

This Writ Petition is filed seeking a writ of mandamus declaring the action of the third respondent in issuing memorandum of charge dated 21.05.2018 and memo dated 23.07.2018 appointing the fifth respondent as the Inquiring Authority to conduct departmental enquiry against the petitioner, even though there was no fault of the petitioner, as illegal, arbitrary and to set aside the same duly treating the suspension period with effect from 06.02.2018 to 12.07.2018 as 'on duty', as the same is wholly unjustified.

Heard Sri M.V.Rama Rao, learned counsel for the petitioner and the Special Government Pleader for Home.

It has been contended by the petitioner that while he was discharging his duties as Office Superintendent in the office of the Assistant Commissioner of Police under the control of the fifth respondent, the respondents have issued a charge memo on 21.05.2018 alleging certain irregularities. When the petitioner has received charge memo on 12.07.2018, he had noticed that certain documents, which were alleged to have been annexed to the charge memo, were not furnished. In those set of circumstances, the petitioner has submitted a representation to the respondent on 19.07.2018 requesting to supply the documents which were stated in the annexure. The respondents had passed an order dated 23.07.2018 to supply the documents to the petitioners. Even before the petitioner could submit

explanation, the respondents have appointed Enquiry Officer vide proceedings dated 31.07.2018. Therefore, the petitioner contends that the respondents have appointed the Enquiry Officer to enquire into the charges even before he could submit an explanation.

Learned Special Government Pleader for Home appearing for the respondents had contended that charge memo was issued on 21.05.2018 and ample opportunity was given to the petitioner to submit explanation but in spite of the same, the petitioner has not chosen to give any explanation. The authorities had no other option except to enquire into the charges and hence, no illegality has been committed by them and hence, there are no merits and prayed for dismissal of the Writ Petition.

Upon considering the rival submissions made by the parties, it is opined that the respondents could not have appointed the Enquiry Officer even before the petitioner could submit an explanation. Therefore, the action of the respondents in appointing the Enquiry Officer vide proceedings dated 31.07.2018 is liable to be set aside and is, accordingly, set aside. Liberty is given to the petitioner to submit explanation to the charge memo within a period of two (2) weeks from the date of receipt of a copy of this order. It is open to the authorities to drop the charges if the explanation submitted by the petitioner is convincing and if it is not convincing, it is open to them to proceed against the petitioner with the disciplinary proceedings.

With these observations, the Writ Petition is disposed of.
There shall be no order as to costs. Miscellaneous petitions, if
any, pending shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

2nd November 2018
RRB

