

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5127 of 2018

and

WMP.No.6298 of 2018

R.Jeyaretnakumar

... Petitioner

...Vs...

1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Home (Courts-6) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Proseccion,
Slum Clearance Board Building,
Chennai-600 005.

3. The Deputy Director of Prosecution,
Taluk Office Complex,
Kancheepuram-631 501.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.5897/Ku.Va.Tho.E/A4/2017 dated 26.02.2018 and to quash the same and consequently directing the respondents to consider the petitioner for promotion to the post of Deputy Director of Prosecution on inclusion of his name in 2016-2017 panel with all consequential and other attendant benefits.

For Petitioner : Mr.G.Sankaran

For Respondents 1-3 : Mr.A.N.Thambidurai
Spl.Govt. Pleader

O R D E R

The charge memo dated 26.02.2018 is under challenge in the present writ petition.

2. The writ petitioner was initially appointed as Assistant Public Prosecutor Grade - II in the Department of Prosecution through Tamil Nadu Public Service Commission on 12.04.1996. Subsequently, the writ petitioner was promoted as Assistant Public Prosecutor Grade-I during the year 2010 and posted as Legal Advisor to CBCID. Thereafter, the writ petitioner was promoted as Assistant Public Prosecutor and attached with the Chief Judicial Magistrate, Chengalpattu. Based on his seniority he was promoted as the Deputy Director of Prosecution, Alandur, during the year 2013.

3. The grievances of the writ petitioner is that based on certain false set of facts, a charge memo has been issued on the eve of his promotion to the higher post of Deputy Director of Prosecution. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned counsel for the writ petitioner states that, without even receiving explanations from the writ petitioner, the enquiry is proceeded with. This apart, the documents which all are relied on by the department for the purpose of establishing the charges are also not furnished to the writ petitioner. Thus, the writ petitioner is unable to defend his case in accordance with law.

5. Both the grievances are certainly reasonable. this Court is of an opinion that, on commencement of enquiry proceedings, the documents relied on by the department must be furnished to the delinquent Officer. If those documents are confidential in nature, then also the delinquent official must be allowed to perused the document for the purpose of defending his case in the manner known to law.

6. This apart, the explanations to be submitted must also be received and the defense statement made therein to be also considered at the time of conducting enquiry by the Enquiry Officer. This being the procedures to be followed in order to comply with the principle of natural justice, this Court is of an opinion that the respondents must receive the explanations/objections in respect of the charges set out in the charge memo and furnish the documents relied on by the department for the purpose of establishing the charges.

7. The learned counsel for the writ petitioner states that before submitting the explanation, the writ petitioner must be in a position to peruse the documents enabling him to submit a detailed explanation. Under these circumstances, the following orders are passed.

1. The respondents are directed to furnish the copies of the documents to the writ petitioner relied on by the department for the purpose of establishing the allegations set out in the charge memo and thereafter, grant 2 weeks time to the writ petitioner to submit his explanations/objections in respect of the allegations and the charges.
2. On receipt of the explanation from the writ petitioner, the enquiry proceedings shall be continued and after concluding the enquiry proceedings, all appropriate actions shall be taken to pass final orders in the departmental disciplinary proceedings.
3. The respondents are directed to conclude all these proceedings as expeditiously as possible and without causing any undue delay.

8. In view of the fair submission made by the learned counsel for the writ petitioner and with consent the above orders are passed. The writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Additional Chief Secretary to Government
State of Tamil Nadu,
Home (Courts-6) Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Director of Prosecution,
Slum Clearance Board Building,
Chennai-600 005.

3. The Deputy Director of Prosecution,
Taluk Office Complex,
Kancheepuram-631 501.

+1cc to Mr.G.Sankaran, Advocate sr.no.13821

W.P.No.5127 of 2018

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nr 25/03/2019



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