

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3395 of 2018
and
W.M.P.No.4162 of 2018

S.Kaladharan

..Petitioner

--vs--

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai - 9.

2.The Commissioner,
Tribunal for Disciplinary Proceeding,
Nagercoil, Kanniyakumari District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for records relating to the charge memo issued by the second respondent in Roc.No.B1/427/2017 (TDP No.01/2017) dated 02.05.2017 and quash the same.

For Petitioner : Mr.N.Kolandaivelu

For Respondents: Mr.D.Suriya Narayanan,
Additional Government Pleader.

O R D E R

The charges framed against the writ petitioner by the Tribunal for Disciplinary Proceedings bearing Roc.No.B1/427/2017 (TDP No.01/2017) dated 02.05.2017, is under challenge in the present writ petition.

2.The writ petitioner is now working as Executive Officer Grade-I at Vettavalm Town Panchayat, Thiruvannamalai District. On account of certain allegations, the charge memo was framed against the writ petitioner and in view of the fact that the charges are in connection with certain misappropriation of public funds, the authorities competent transferred the case for

enquiry before the Tribunal for Disciplinary Proceedings, Nagercoil.

3. The learned counsel for the petitioner states that the allegations are relating to the year 2005 and there is an enormous delay even in audit objections and therefore, the charges are liable to be quashed. Undoubtedly, prolonged delay may cause prejudice to the delinquent officials also in the matter of defending his case. However, the cases of misappropriation cannot be dealt with, in a routine manner. Since the misappropriation is in relation to the public funds, audit objections are raised belatedly. The reason being, in all Government sector undertakings random auditing is being done by the audit party. This Court has to have a practical approach in respect of the audit conduct by the audit parties. It may not be possible for the audit group to conduct entire audit in entirety which all are very huge in nature. Thus, during the random check only, they identify certain misappropriations, irregularities and illegalities in respect of utilisation of public funds by the competent authorities. However, once the misappropriations, irregularities or illegalities are identified, then the competent authorities should not delay the matter to initiate the disciplinary proceedings immediately and in the present case on hand, undoubtedly, there is a delay in identifying the irregularities. However, there is no delay in initiating the disciplinary proceedings. This apart, the allegations being misappropriation of public funds, the matter had already been referred to the Tribunal for Disciplinary Proceedings. It is preferable that the proceedings should conclude and the same reaches its logic end.

4. Undoubtedly, the procedures to be adopted by the Tribunal is that of the trial natured one. Therefore, the petitioner would get an opportunity to verify all the documents, which all are relied upon by the department as well as to defend his case by availing the opportunity. This Court is aware of the fact that large number of cases are now pending before the Tribunals for Disciplinary Proceedings and it may not be possible for the Presiding Officer to conclude all such cases within a short span of time. A practical approach is required by the High Court also while issuing directions to conclude the proceedings within a short span of period. However, in the present case, the allegations is of the year 2005, there is a long delay in initiation of disciplinary proceedings and the case was referred already to the Tribunal for disciplinary proceedings for enquiry and the Tribunal also framed charges against the writ petitioner in proceedings dated 02.05.2017. Under these circumstances, it is preferable to direct the Tribunal to expedite the enquiry and

submit the Enquiry Report enabling the disciplinary authority to pass final orders.

5. This being the principles to be followed, the Tribunal for disciplinary proceedings / 2nd respondent is directed to proceed with the enquiry and conclude the same as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. The Tribunal also shall take the direction of this Court positively and conclude the same, without any further lapses of time. Based on the Enquiry Report, disciplinary authority has to pass final orders without any further lapse of time.

6. Accordingly, the present writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai - 9.

2.The Commissioner,
Tribunal for Disciplinary Proceeding,
Nagercoil, Kanniyakumari District.

+lcc to Mr.N.Kolandaivelu, Advocate Sr.11218

+lcc to the Government Pleader Sr.11385

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pm[co]
srg 7/3/2019