

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.1771 of 2019

&

C.M.P.No.11998 of 2019

B.Selvam Appellant

-vs-

The Commissioner of Municipal Administration,
O/o. The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

.... Respondent

Write Appeal filed under Clause 15 of Letter Patent against the order dated 19.03.2019 made in W.P.No.27207 of 2018 on the file of the High Court of Judicature at Madras.

W.P.No.27207 of 2018:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding of the Respondent in R.O.C. 35295/2014 F1-2 dated 17.09.2018 quash the same and consequently, direct the respondent herein and promote the petitioner as executive Engineer in Trichy City Corporation.

For Appellant : Mr.Veera Kathiravan
Senior Counsel
for Mr.A. Mohamed Ismail

For Respondent : Mrs.A.Sri Jayanthi
Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by P.T.ASHA,J.]

The Intra-Court appeal arises against the order dismissing the Writ Petition filed by the appellant seeking to issue a Writ of Certiorarified Mandamus to quash the Charge Memo issued by

the respondent and to direct the respondent to promote him as Executive Engineer in Trichy City Corporation.

2.The facts in brief necessary to dispose of the above Writ Appeal are as follows:

The appellant was issued with a Charge Memo dated 17.09.2018 imputing misconduct and misbehaviour. The appellant was working as Municipal Engineer at Villupuram Municipality. The charge was that he had colluded with the then Assistant Engineer K.Meiporul in improper execution of certain works of the Municipality which had resulted in a financial loss of about Rs.2,00,193/- to the Municipal funds.

3.Challenging the said Charge Memo the appellant had filed the above referred Writ Petition on the ground that the inspection report based upon which the Charge Memo had been prepared does not impute any wrong doing on his part. Therefore the appellant would contend that the showcause notice is totally misconceived and he may be spared the ignominy of attending an enquiry.

4.The learned single Judge by order dated 19.03.2019, was pleased to dismiss the Writ Petition stating that the appellant had only been served with a Charge Memo to which it was well open to him to submit his objections. Challenging the said order the appellant is before this Court.

5.Mr.Veera Kathiravan, Senior Counsel for the appellant, would argue that the inspection report has only imputed wrong doing on the said Meiporul and nowhere does it make any reference to any misconduct on the part of the appellant. The learned senior counsel was particularly aggrieved by Paragraph No.22 of the order which only states that the Competent authority has to proceed with the enquiry and conclude the same without delay. The learned senior counsel would contend that there is no scope given for the appellant to putforth his objections.

6.As rightly held by the learned single Judge the appellant has only been served with a Charge Memo to which he has the remedy of filing detailed objections. Though we did not find any infirmity with the order passed by the learned single Judge, however, we deem it fit to dispose of the Writ Appeal with the following observations:

a)The appellant shall submit his reply to the Charge Memo within a period of 15 days from the date of receipt of a copy of the Judgement.

b)Thereafter the Competent Authority shall first consider if any prima facie case/material has been made out for proceeding further with the Charge Memo. If they conclude that a prima

facie case has been made thereafter the Competent Authority shall appoint the Enquiry Officer, who shall there upon proceed to held the enquiry and dispose of the same within a period of two months from the date of his appointment.

7.It is also made clear that paragraph No.22 is only an expression of opinion of the learned single Judge and the Authorities shall not be swayed by the remarks made therein.

The Writ Appeal is disposed of on the above lines. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

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To

The Commissioner of Municipal Administration,
O/o. The Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

+1 CC to M/s. Veera Associates sr 49948.

+1 CC to Govt. Pleader sr 49489

W.A.No.1771 of 2019 &
C.M.P.No.11998 of 2019

VD(CO)
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