

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.15178 of 2018
and W.M.P.No.18027 of 2018

V.Chandran

....

Petitioner

Vs

1.Salem City Municipal Corporation
represented by its Commissioner
Salem-636 007.

2.Thiru.R.Sadheesh, Commissioner
Salem City Municipal Corporation
Salem - 636 007.

....

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the first respondent in Na.Ka.No.K2/4697/2018 dated 08.05.2018 and Na.Ka.No.K2/4697/2018 dated 25.05.2018 and quash the same.

For Petitioner : Mr.Muthumani Doraisami, Senior Counsel
for Kandhan Duraisami

For Respondents : Ms.K.Bhuvaneswari,
Addl.Government Pleader- for R1

Mr.K.C.Vinodh for R2

ORDER

This writ petition has been filed challenging the orders of the first respondent in Na.Ka.No.K2/4697/2018 dated 08.05.2018 and dated 25.05.2018.

2. The petitioner joined the services of Salem Special Grade Municipality, now upgraded as Municipal Corporation. The petitioner is serving as Junior Engineer in Salem City Municipal Corporation for the past 23 years.. The respondent corporation issued a charge memo dated 25.05.2018 on the petitioner. The sum and substance of the charge memo is that :-

1. Ignored the orders of superior officers.
2. Not attended the smart city works.
3. Responsible for causing bad name to the Corporation

3. In the list of documents annexed to the charge memo dated 25.05.2018 only a telephonic order of the Commissioner dated 08.05.2018 has been referred. Perusal of the charge memo goes to show that no specific charges are framed against the petitioner, as to what are the irregularities committed, specific date on which it was committed, and the nature of the allegation in respect of each charge. The charge memo dated 25.05.2018 is not supported by any documents, and not even the file number has been stated in the Annexure II.

4. Learned counsel for the petitioner further contends that the suspension order is passed against the judgment rendered by the Supreme Court in (2015) 7 SCC 291 "Ajay Kumar Choudhary Vs Union of India" and relies upon the following observation.

"We, therefore direct that the currency of a suspension order should not extend beyond three months, if within this period, the Memorandum of Charges / Charge sheet is not served on the delinquent officer / employee; if the Memorandum of Charge Sheet is served, a reasoned order must be passed for the extension of suspension. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution."

4. It is stated that there is no review of suspension order has been made, and no enquiry has been conducted. In view of the above, the suspension order is liable to be revoked and the charge memo has to be quashed. But still, the Additional Government Pleader appearing for the respondents seek time to conduct a proper enquiry and that an enquiry may bring out some mistakes committed.

5. As the charges are very vague and subjective (not objective) the charge memo dated 25.05.2018 stands quashed. Consequently, the order of suspension also stands revoked. However, it is open to the respondents to frame specific

charges, if any, and proceed in accordance with law. With the above directions, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

avr / kst

To

The Commissioner
Salem City Municipal Corporation
Salem 636 007.

+1cc to Mr.Muthumani Doraisami, Advocate SR.No.77

+1cc to Mr.N.R.Jasmine Padma Advocate SR.No.246

W.P.No.15178 of 2018
and W.M.P.No.18027 of 2018

SAI (CO)
GMY(01/02/2019)