

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.02.2019

CORAM

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

W.P.No.16204 of 2018
and
W.M.P.No.19286 of 2018

S.M.Velumani

.. Petitioner

..vs..

1.The Superintending Engineer,
CEDC/Central, TANGEDCO,
Chennai - 600 034.

2.The Chief Engineer,
Distribution, TANGEDCO,
Chennai Region/North/
144, Anna Salai,
Chennai - 600002.

3.The Addl. Chief Secretary to Government,
Energy (B2) Department,
Secretariat, Chennai - 9.

..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 from the 1st respondent pertaining to the impugned charge memo No.004789/221/Adm/B.Sec/B.2/F.D.P./17 dated 30.04.2018 and to quash the same.

For Petitioner : Mr.K.M.Subrahmaniam

For Respondents : Mrs.P.R.Dhilip Kumar

Standing Counsel for EB for R1 & R2

Mr.M.Elumalai

Government Advocate for R3

O R D E R

The order of the first respondent dated 30.04.2018, appointing the Enquiry Officer to conduct an enquiry in respect of the allegations set out in the charge memo issued to the writ petitioner in proceedings dated 30.04.2018 is under challenge in the present writ petition.

2. The writ petitioner had already submitted his explanations to the charge memo on 06.07.2017 and the Enquiry Officer has been appointed on 30.04.2018 challenging the said order, the present writ petition is filed.

3. The charges against the writ petitioner are extracted hereunder:

"On 03.06.2008 when the complainant Tr.G.Joseph wilfred met Tr.S.M.Velumani, A.E., O&M at his pulianthoppu TNEB office he had demanded Rs.20,000/-, and later reduced it to Rs.18,000/- which included Rs.7,500/-, the legal fees to be paid to TNEB from the complainant to effect the three phase connection in his father house. Tr.S.M.Velumani had further instructed Tr.G.Joseph wilfred to hand over the same either to him or to Tr.R.Mariaprakasam, Commercial Assistant, on 05.06.2008 pursuance of the aforesaid demand by Tr.S.M.Velumani, A.E., the complainant Tr.G.Joseph wilfred and the official witness Tr.Palani went to AE's office where by met Tr.R.Mariaprakasam, C.A. in his office at about 12.40 hrs on 05.06.2008. Since Tr.S.M.velumani, A.E, was not available at his office as already instructed by Tr.S.M.Velumani, A.E., the complainant had given the demanded money of Rs.18,000/- to Tr.R.Mariaprakasam, Commercial Assistant and the A.E., received the said amount of Rs.18,000/- on behalf of Tr.S.M.Velumani, A.E., and thereby Tr.S.M.Velumani, A.E., violated Rule 3 (a) of the Tamil Nadu Electricity Board Employees' Conduct Regulations and thereby he failed to maintain absolute integrity and devotion to duty."

Annexure - II to the charge memo provides statement of allegations. Annexure - III enumerates the list of witnesses to be examined and Annexure - IV denotes the list of documents relied upon by the department.

4. The allegations against the writ petitioner is in relation to the corrupt activities. Undoubtedly, a criminal case was registered against the writ petitioner which was ended with an order of acquittal. However, the order of acquittal from the criminal case is not exonerated the writ petitioner from the departmental disciplinary proceedings.

5. This Court is of the considered opinion that, the procedures to be adopted in the criminal case as well as in the departmental proceedings are distinct and different. For convicting a person under the criminal law, a strict and high standard of proof is required. However, no such strict or high

standard of proof is required for punishing a Government employee under the Discipline and Appeal Rules. Even preponderance of probabilities are enough to punish an employee. Even a moral turpitude is sufficient to punish an employee under the Discipline and Appeal Rules as well as under the Government Servants Conduct Rules. Thus, the standard of proof required for a criminal case and the departmental disciplinary proceedings are separate and distinct.

6. Mere acquittal in a criminal case is not a ground for the exoneration of a public servant from the allegations in the present case on hand. The respondents are having documents, witnesses and other materials on record. Thus, there is no impediment for the respondents to continue the departmental disciplinary proceedings and conclude the same by passing final orders on merits and in accordance with law.

7. The writ petitioner has to defend his case by availing opportunities provided by the Competent Authorities under the Rules. He cannot seek exoneration from the charges, merely on the ground that he was acquitted in a criminal case. The allegations of corruption against the public servant is serious in nature. Thus, the petitioner has to face trial in Criminal Court of Law and prove his innocence or otherwise by producing documents or by adducing evidences.

8. The present writ petition has filed challenging the appointment of Enquiry Officer cannot be quashed. In view of the fact that all those allegations set out in the charge memo are to be enquired into by the Competent Authorities and the departmental disciplinary proceedings initiated should reach its logical conclusion.

9. Thus, the writ petitioner is at liberty to participate in departmental disciplinary proceedings and the respondents shall conduct the proceedings at the earliest possible and conclude the same and pass final orders on merits and in accordance with law.

10. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Pns

To

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Secretariat, Chennai - 9.

+1cc to Mr.P.R.Dhilip Kumar Standing Counsel for EB
Advocate, S.R.No. 18609

W.P.No.16204 of 2018
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SSI (CO)
GN (29/03/2019)



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