



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.07.2019

WEB COPY

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.19531 of 2019

S.Selvaraj

... Petitioner

vs.

The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-5.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records in pursuant to the memorandum issued to the petitioner vide Memo No.29109/Estt.(DP)/A4/2017 dated 27.3.2019 and the memorandum of charges vide No.29109/Ne(O.Na)/A4/2017 dated 26.12.2017 both issued by the respondent and quash both of them with a consequential direction to the respondent to settle all the retirement and pensionary benefits to the petitioner within a stipulated time.

For Petitioner	..	Mr.T.P.Prabakaran
For Respondent	..	Mr.R.Ganesh Babu

ORDER

The petitioner was working as a Superintendent Engineer in TWAD Board. He was issued with a charge memorandum dated 26.12.2017 framing three articles of charges against him. An enquiry Officer was appointed to enquire into the charges and in the meanwhile, the petitioner was allowed to retire from service on attaining the age of superannuation, on 31.12.2017. After completion of enquiry, a report was submitted on 24.10.2018 holding all the three charges framed against the petitioner have not been proved. The respondent/disciplinary authority, vide his communication dated 27.3.2019 has called upon the petitioner to furnish his statement of defence for the reason that he has decided to differ with the findings of the Enquiry Officer. The said communication dated 27.3.2019 is put to challenge in the present writ petition.



2.Mr.T.P.Prabakaran, the learned counsel appearing for the petitioner would submit that there is absolutely no material whatsoever for the disciplinary authority to differ from the findings of the Enquiry Officer. In fact, according to the learned counsel, a detailed representation has been submitted by the petitioner on 02.05.2019 and no order was passed on the same. According to the counsel, since the action of the disciplinary authority in differing with the findings of the Enquiry officer is without any factual or legal basis, the same is put to challenge in the present writ petition.

3.First of all this Court is unable to comprehend as to why the petitioner has chosen to approach this Court at this stage by challenging the communication of the disciplinary authority disclosing his view to differ with the findings of the Enquiry Officer. In case, the decision taken by the disciplinary authority is without any legal or factual basis, it enures to the advantage of the petitioner and in case, any adverse order is passed by the disciplinary authority on the basis of baseless findings, it can always be successfully challenged by the petitioner. While so, this Court cannot be called upon to intervene at this stage when the disciplinary authority has merely expressed his intention to differ from the views of the Enquiry Officer. In any case, the petitioner himself has submitted a representation on 02.05.2019 and ultimately it is the disciplinary authority, who has to take a call finally after considering the explanation offered by the petitioner. In the interregnum, the petitioner cannot approach this Court and stall the process of finalization of the disciplinary proceedings. Whether there exists any basis for the disciplinary authority to differ from the findings of the Enquiry Officer is entirely up to the disciplinary authority to come to a conclusion on the basis of materials that were made available during the disciplinary proceedings. It is certainly not for this Court to appreciate these aspects in a judicial review under Article 226 of the Constitution of India.

4.For the above said reasons, this Court finds that the writ petition is not maintainable, as the same being too premature. Hence, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



To

The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-5.

+lcc to Mr.R.Ganesh Babu, Advocate sr.57541

+lcc to Mr.T.P.Prabakaran, Advocate sr.57562

W.P.No.19531 of 2019

rr(co)

nr 06/08/2019