

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 28.08.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.25409 of 2019

&

W.M.P.Nos.25003 & 24944 of 2019

M.Pitchandy

...Petitioner

Vs.

1.The Additional Director General of Police/
Inspector General of Prisons, Chennai - 08.

2.The Superintendent of Prisons,
Central Prison - II, Puzhal,
Chennai - 600 066.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of certiorarified mandamus to call for the records relating to the impugned order of the first respondent in No.19099/ES-3/2017 dated 18.07.2019 and Charge Memo issued by the second respondent in Proceedings No.2683/G-3/2017-1 dated 03.05.2017 and quash the same and direct the respondents to take appropriate disciplinary action as per the orders passed by the first respondent in Proceedings No.37/CAMP/ADGP/2017 dated 20.05.2017.

For Petitioner : P.Rajendran

For Respondents : Mr.J.Pothyraj, Spl.G.P.

ORDER

The petitioner is working as Assistant Jailor, at Special Sub Jail, Poonamallee. On 21.04.2017, he was placed under suspension pending contemplation of charges. Subsequently, a charge memorandum was issued on 03.05.2017 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. According to the petitioner, certain crucial documents have not

been furnished to him despite his demanding for it. Therefore, the petitioner was constrained to approach this Court in W.P.No.33516 of 2018 and this Court disposed of the writ petition on 10.04.2019 directing the respondents to pass orders on the representation submitted by the petitioner herein. In pursuance of the direction, an order was passed on 18.07.2019 rejecting the claim of the petitioner and hence the present writ petition.

2.Shri.P.Rajendran, learned counsel appearing for the petitioner would submit that despite this Court's direction in the earlier round of litigation, the Authority rejected his representation without considering the demand of the petitioner for furnishing of documents. Therefore, the petitioner herein is constrained to once again challenge the action of the respondents.

3.While appreciating the arguments advanced on behalf of the petitioner by the learned counsel, this Court has perused the order passed by the learned Judge of this Court in the earlier round of litigation in W.P.No.33516 of 2018, dated 10.04.2019. The learned Judge, after taking note of the facts and the submissions made, has disposed of the writ petition as under;

"6.Thus, without going into the merits of the matter, the first respondent is directed to consider the representation submitted by the writ petitioner on 19.04.2018 and pass order on merits and in accordance with law and in the event of dropping the charges, the petitioner can be exonerate and if a decision is taken to reject the representation, then the Disciplinary Authority is at liberty to conduct departmental disciplinary proceedings and conclude the same as expeditiously as possible, without causing any undue delay."

4.From the above, it could be seen that in case the representation of the petitioner was not favourably considered, the Disciplinary Authority was at liberty to conduct departmental disciplinary proceedings and conclude the same expeditiously, without causing any delay.

5.When the above direction has been given by this Court at the instance of the petitioner himself, this Court does not appreciate as to how the petitioner can once again come back to this Court challenging the disciplinary action initiated against him. Having invited the above direction from this Court, the

petitioner cannot exercise further option of approaching this Court for the same cause of action.

6.In the said circumstances, this Court is of the considered view that the repeated challenge to the disciplinary action by the petitioner amounts to gross abuse of process of this Court and the petitioner cannot be allowed to derail the process of departmental disciplinary proceedings, which was initiated in pursuance of the charge memorandum issued against him.

7.For the above said reasons, this Court finds that the writ petition lacks bona fides and the same is devoid of merits and hence dismissed. No costs. Consequently connected miscellaneous petitions are dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional Director General of Police/
Inspector General of Prisons, Chennai - 08.
- 2.The Superintendent of Prisons,
Central Prison - II, Puzhal,
Chennai - 600 066.

+lcc to P.Rajendran, Advocate sr.73790
+lcc to Government Pleader SR.NO. 74635

W.P.No.25409 of 2019

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