

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.29971 of 2019
and W.M.P.No.29871 of 2019

L.Felix Reginald

...Petitioner

vs.

1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Teynampet, Chennai - 6.

2.The Assistant Commissioner of Labour,
(Enforcement) cum Inquiry Officer,
First Circle, 33, Venkatanarayana Road,
Tamilnadu Slum Clearance Board Building,
Nandanam, Chennai -35.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, call for the records of the 2nd respondent in his proceedings No.NIL dated 26.08.2019 and quash the same and consequently direct the respondent to conduct a fresh denovo enquiry into the charges levelled against him as directed by this Court in W.P.No.21679/2016.

For Petitioner : Mr.N.Balamuralikrishnan

For Respondents : Mr.A.N.Thambi Durai
Special Government Pleader

ORDER

The Writ Petition has been filed by the petitioner to quash the proceedings No.NIL dated 26.08.2019 of the second respondent and consequently direct the respondent to conduct a fresh denovo enquiry into the charges levelled against him as directed by this Court in W.P.No.21679 of 2016.

2.The case of the petitioner is that on 24.04.2015 a charge memo was issued to the petitioner and the petitioner denied all the charges against him. He also sought for copies of documents relied on by the Department attached with the charge memo. Subsequently, the documents were furnished to the petitioner in piece meal and further, the inquiry

officer was directed to produce those documents but the department did not produce the same. Without finding fault with the department for not producing the documents, the inquiry officer set the petitioner exparte on 03.06.2016. The action of the inquiry officer was challenged by the petitioner in W.P.No.21679 of 2016. This Court by its earlier order dated 11.07.2018, allowed the petition by directing the inquiry officer to conduct the enquiry afresh from the stage where the error took place and further direction was given to the Disciplinary Authority to furnish the copy of the documents to the petitioner and direction was also given to the Disciplinary Authority to complete the enquiry within 6 months. On 26.08.2019, the second respondent has been appointed as inquiry officer pursuant to the order passed by this Court in the above writ petition to have submitted a report on 26.08.2019 holding the charges as proved. Without following the directions issued by this Court, the Disciplinary Authority and Inquiry Officer not affording opportunity to the petitioner, set the petitioner exparte and concluded the enquiry and hurriedly forwarded the report to the Government. Hence, it is a clear case of violation of this Court order dated 11.07.2018. Hence, the present Writ Petition has been filed before this Court.

3.The learned counsel appearing for the petitioner would submit that it would suffice if this Court issues direction to the inquiry officer after affording opportunity to the petitioner as directed by this Court by its earlier order dated 11.07.2018 and pass appropriate orders.

4.The learned Special Government Pleader appearing for the respondents would submit that in spite of notice sent to the petitioner twice asking him to appear for the enquiry, he did not appear for the enquiry. Hence, the petitioner set exparte and concluded the enquiry and forwarded the report to the Government. The Inquiry Officer/second respondent, Mr.Giriraj appeared before this Court today and has agreed to give the necessary copies within a period of two weeks.

5.Considering the facts and circumstances, though the notice was sent twice to the petitioner, admittedly, the petitioner did not appear for the enquiry. The Inquiry Officer/second respondent, Mr.Giriraj is directed to give the necessary copies within a period of two weeks from the date of receipt of a copy of this order and the petitioner is also directed to peruse the documents within one week thereafter and pass appropriate orders. The above exercise shall be done within a period of 12 weeks from the date of receipt of a copy of this order.

6.With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

pam

To

- 1.The Commissioner of Labour,
Office of the Commissioner of Labour,
Teynampet, Chennai - 6.
- 2.The Assistant Commissioner of Labour,
(Enforcement) cum Inquiry Officer,
First Circle, 33, Venkatanarayana Road,
Tamilnadu Slum Clearance Board Building,
Nandanam, Chennai - 35.

+1cc to Mr.N.Balamuralikrishnan, Advocate Sr.94364
+1cc to the Government Pleader Sr.94581

W.P.No.29971 of 2019

pp[co]
srg 25/11/2019

सत्यमेव जयते
WEB COPY