



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2019

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.15374 of 2019**and****W.M.P. (MD) Nos.11970 and 11971 of 2019**

K.Jeyaprakash Pandian

...Petitioner

Vs.

1.The Divisional Security Commissioner,
Railway Protection Force,
Madurai.

2.The Assistant Security Commissioner,
Railway Protection Force,
Madurai Division,
Railway Junction, Madurai.

3.Inspector/TEN,
Enquiry Officer,
Railway Protection Force,
Southern Railway,
Tirunelveli Junction,
Tirunelveli.

4.The Inspector,
Railway Protection Force,
Southern Railway,
Rameswaram Railway Junction,
Rameswaram,
Ramnad District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records culminated in the impugned charge sheet No.UXP/153/03/19 dated 04.07.2019 issued by the second respondent and quash the same as arbitrary, illegal and against the principles of natural justice and the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968.

For Petitioner

: Mr.Y.Krishnan

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.S.Manohar

Standing Counsel

**ORDER**

This Writ Petition has been filed to quash the impugned charge sheet No. UXP/153/03/19 dated 04.07.2019 issued by the second respondent.

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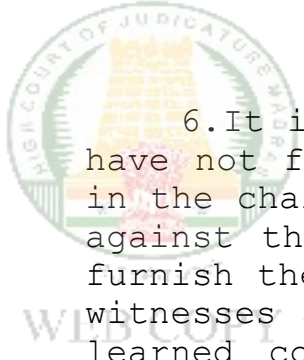
2. The learned counsel appearing for the petitioner would submit that the petitioner was working as Constable in Southern Railway and subsequently, he was transferred to the office of the Inspector of Railway Protection Force, Rameswaram, as Head Constable. Thereafter, the second respondent by order dated 04.07.2019, has issued charge sheet to the petitioner alleging that when the petitioner was on duty, he demanded transport vehicle from an employee of Aurobindo Constructions for his personal use and assaulted two employees for not providing the same.

3. Further, the learned counsel for the petitioner would submit that without providing sufficient opportunity to the petitioner to offer his explanation to the charges as per the Railway Servants (Discipline and Appeal) Rules, 1968, and Railway Protection Force Rules, 19957, the second respondent has nominated the third respondent as Inquiry Officer on the very same day of issuance of the charge sheet to conduct the enquiry. Therefore, without following the statutory provisions, the second respondent issued the said charge sheet dated 04.07.2017. Hence, the petitioner is before this Court with the present writ petition for the relief as stated above.

4. The learned Standing Counsel appearing for the respondents would submit that by following the procedures under Rule 153.5 of the Railway Protection Force Rules, 1987, the second respondent has nominated the third respondent as Inquiry Officer to conduct the enquiry and has issued the said charge sheet against the petitioner. Rule 153.5 of the Railway Protection Force Rules, 1987, reads as follows:

The disciplinary authority shall deliver or cause to be delivered to the delinquent member, at least seventy-two hours before the commencement of the inquiry, a copy of the articles of charge, the statement of imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and fix a date when the inquiry is to commence; subsequent dates being fixed by the Inquiry Officer;

5. Further, the learned Standing Counsel appearing for the respondents would submit that the said rule is applicable in the present case on hand.



6. It is a specific case of the petitioner that the respondents have not furnished the copy of the list of documents as mentioned in the charge memo to the petitioner. Further, for the allegation against the petitioner, the respondents are not in a position to furnish the details of the particulars or list of documents or any witnesses as mentioned in the charge memo. At this juncture, the learned counsel for the petitioner requested before this Court that the petitioner may be given a liberty to file an application before the respondents for furnishing the documents as mentioned in the charge memo.

7. Considering the facts and circumstances of this case and in view of the submission made on either side, this Court is inclined to pass the following orders:

(i) the petitioner is directed to make an application before the respondents to furnish the copy of the documents as mentioned in the charge memo within a period of two weeks from the date of receipt of a copy of this order if he is so advised;

(ii) on receipt of such application, the respondents are directed to furnish the copies of said documents as mentioned in the charge memo within a period of two weeks from the date of receipt of such application;

(iii) thereafter, the petitioner shall submit his explanation to the disciplinary authority within a period of ten days; and

(iv) after receiving the petitioner's explanation, the respondents are directed to proceed with the matter in accordance with law;

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

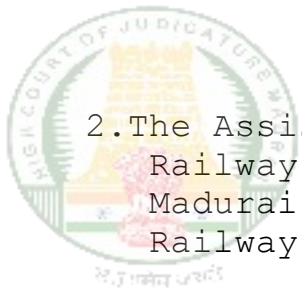
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Sub Assistant Registrar(CS)

To

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Railway Protection Force,

Madurai



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Southern Railway,
Rameswaram Railway Junction,
Rameswaram,
Ramnad District.

+2 CC to Mr.Y.KRISHNAN, Advocate SR-74724.
+1 CC to Mr.S.MANO HAR, Advocate SR-74825.

W.P. (MD) No.15374 of 2019
10.07.2019

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