

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 18.07.2019

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD)No.13317 of 2015****and****M.P. (MD) .No.1 of 2015**

G.Chitharthan

... Petitioner

Vs.

1. The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Nagercoil,
Kanyakumari District.

2. Ms.Pearl Metlida,
Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the record relating to the impugned order bearing No.Ku.No.008003/39/Ni.Pi.3/D.1/2015 dated 06.07.2015 passed by the first respondent and quash the same.

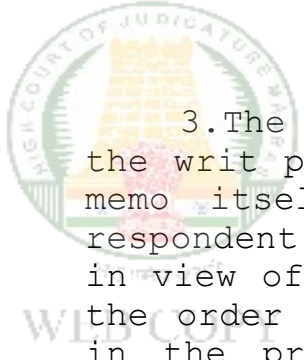
For Petitioner : Mr.S.Anwar Sameem

For R1 and R2 : Mr.A.U.Ramanathan

ORDER

The show cause notice dated 06.07.2015 issued to the writ petitioner seeking further explanation on the enquiry report, is under challenge in the present writ petition.

2.The writ petitioner joined the Tamil Nadu Electricity Board as Technical Assistant and the writ petitioner was thereafter, promoted to the Junior Assistant Grade-I. On account of certain allegations, a charge memo was issued to the writ petitioner. The writ petitioner also denied the charges and an enquiry was conducted.

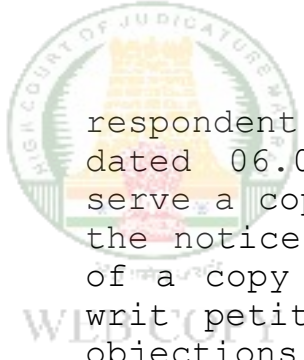


3. The learned counsel for the writ petitioner contended that the writ petitioner is innocent of the allegations and the charge memo itself was issued only on malafide grounds. The second respondent has a personal vengeance against the writ petitioner, in view of the fact that he approached the High Court for seeking the order of transfer. However, the petitioner has participated in the process of enquiry and defended his case. The Enquiry Officer submitted his final report. Enclosing a copy of the enquiry report, notice was sent to the writ petitioner in proceeding, dated 07.04.2015. In proceeding dated 07.04.2015 which is enclosed in page No.69 of the typed-set of papers filed along with the writ petition, it is stated that the enclosures along with notice are 39 pages. Relying on the said communication, the learned counsel for the writ petitioner states that the notice, dated 07.04.2015 was communicated to the writ petitioner along with enclosures containing 39 pages. However, the writ petitioner had not received 39 pages along with said communication. Immediately, the writ petitioner submitted a representation on 23.04.2015 categorically stating that only 20 sheets were available along with the notice and therefore, made a request to send a complete report enabling him to submit his explanation/objection. However, the respondents have not taken any action in respect of the representation dated 23.04.2015 and issued a final show cause notice in proceeding dated 06.07.2015. Thus, the writ petitioner is constrained to move the present writ petition.

4. The learned counsel appearing on behalf of the respondents submits that the writ petition itself cannot be maintained, in view of the fact that appeal provisions are available to the writ petitioner. The writ petitioner should have approached the appellate authority for redressing his grievances. In view of the fact that the writ petition challenges the show-cause notice, the same is liable to be rejected.

5. Undoubtedly, the present writ petition is filed challenging the said show cause notice. However, the procedures followed by the respondents are improper, once the enquiry report has been sent to the writ petitioner along with notice, then a complete report must be enclosed enabling the delinquent official to submit his objections/explanation, if any, on the finding of the Enquiry Officer. However, the representation submitted by the writ petitioner reveals that he had received only 20 pages of the enquiry report, though it is categorically stated in the notice that 39 pages are enclosed along with notice.

6. This being the discrepancy, this Court is of the opinion that the matter is to be remanded back for the purpose of sending the enquiry report to the writ petitioner enabling him to submit his explanation for the purpose of defending his case. Accordingly, the impugned notice issued by the first



respondent in proceeding No.Ku.No.008003/39/Ni.Pi.3/D.1/2015, dated 06.07.2015, is quashed. The respondents are directed to serve a copy of the entire enquiry report in full shape along with the notice within a period of four weeks from the date of receipt of a copy of this order. On receipt of such enquiry report, the writ petitioner is directed to submit his explanation/ further objections within a period of four weeks from the date of receipt of the enquiry report and on receipt of such explanation, the respondents are directed to consider the explanations submitted by the writ petitioner as well as the materials available on record, take a decision and pass final orders in the disciplinary proceedings within a period of twelve weeks therefrom.

7.With the above directions, this writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-76216[F] dated 19/07/2019)

W.P. (MD) No.13317 of 2015
and
M.P. (MD) .No.1 of 2015
18.07.2019

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