



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 20.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]No.1285 of 2019
and
C.M.P.[MD]No.10966 of 2019

C.Raja : Appellant / Petitioner

Vs.

1.The Commissioner of Municipal Administration,
M.R.C. Nagar, Raja Annamalaipuram,
Chennai - 600 028.

2.The Commissioner,
Pollachi Municipality,
Pollachi, Coimbatore District.

3.The Commissioner,
Karur Municipality,
Karur, Karur District. : Respondents / Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order passed in W.P.[MD]No.19391 of 2019 dated 20.09.2019.

Prayer in WP(MD) . 19391/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Call for the impunged charge memo of the 1st respondent dt.7.9.2016 in Roc.No.22580/2016/C4-3 and the Memorandum issued by the 1st respondent under Roc.No.26896/2016/VI, dt.24.4.2019 and to quash the same as illeal and further direct the respondents 1 to 3 to disburse the retirement benefits.

For Appellant : Mr.K.R.Laxman

For Respondent 1&2 : Mr.A.K.Baskara Pandian
Special Government Pleader

For Respondent No.3 : Mr.Lourdu Paul Maurya



JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

By consent, the Writ Appeal is taken up for final disposal at the admission stage itself.

2.Heard Mr.K.R.Laxman, learned Counsel appearing on behalf of the appellant, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing on behalf of respondents 1 and 2 and Mr.Lourdu Paul Maurya, learned Counsel appearing on behalf of the third respondent.

3.This appeal is directed against the order in W.P.[MD]No.19391 of 2019 dated 20.09.2019. By the said writ petition, the appellant challenge the charge memo issued to the appellant as being unsustainable and absolutely of no relevance and liable to be quashed. Learned Single Bench did not accept the contention raised by the appellant and dismissed the writ petition.

4.Before us, the learned Counsel for the appellant vehemently contended that the report which was called for from the appellant dates back on the date of auction on 02.08.2013, whereas the report is on 22.08.2013. Further, it is submitted that the charges apart from being vague, the alleged irregularities pointed out in the charge has nothing to do with the role of the Municipal Engineer of the second respondent Municipality and once the Commissioner is holding the post of the second respondent Municipality, he is the competent authority to conduct and monitor the entire auction. Pointing out these allegations against the appellant who is only a Municipal Engineer is absolutely irrelevant.

5.Further it is contended that as per the proceedings of the first respondent dated 29.11.2016, the second respondent has to depute the task of fixing the rent to the revenue department. The manner in which the same was assigned to the appellant itself falls upon the Commissioner of the municipality who was serving at the relevant point of time. Further, the appellant having specifically measured the building which was in proper condition to be let out on tenancy, the question of issuing charge memo against the appellant does not arise. Further, it is contended that the price quoted in the notification was as per the portion which was possible to be let out for rent and the appellant being a Municipal Engineer, was concerned with the safety of the public who will use the building and therefore, he quoted the rent by specifically mentioning the portion which was fit for being given on tenancy. Further, it is submitted that for the mistake committed by the elected committee of the municipality and the mistake committed by the Commissioner of the Municipality, the appellant cannot be penalised.



6.Further, it is submitted that the allegation and the charge is absolutely irrelevant as the appellant was present at the time of the renovation of the building. With regard to the charge relating to the electricity service connection in the name of M/s.Anbu Silks, learned Counsel would submit that the facts clearly shows that the said fact is also irrelevant. With regard to charge No.4, it is contended that the charge is not only vague but has been issued only with a view to postpone the settlement of the retirement benefits and all these put together will clearly show that the disciplinary proceedings initiated against the appellant is a clear abuse of process and the appellant should not be directed to face the disciplinary proceedings.

7.In our considered view, the contentions raised by the learned Counsel cannot be tested for its correctness when the impugned proceedings is a charge memo. Admittedly, it is not the case of the appellant that there is any lack of jurisdiction on the part of the first respondent in issuing a charge memo. The question of vagueness, irrelevancy and other factual matters cannot be tested in a writ jurisdiction. The only remedy available to the appellant is to respond to the charge memo submitting representations and face the enquiry. At the threshold, the charge memo cannot be quashed, more so, on the grounds raised by the appellant before us.

8.In the result, the appeal fails and the same is dismissed. However, the appellant is at liberty to submit his explanation to the charge memo and face the enquiry and any observation made in this order will in no manner prejudice the rights of the appellant to raise his defence in the disciplinary proceedings. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

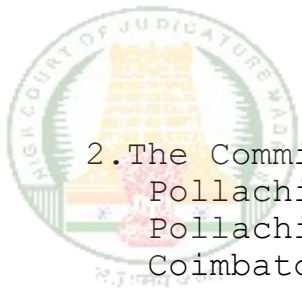
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Sub Assistant Registrar(CS)

To

1.The Commissioner of Municipal Administration,
M.R.C. Nagar,
Raja Annamalaipuram,
Chennai - 600 028.

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



2. The Commissioner,
Pollachi Municipality,
Pollachi,
Coimbatore District.

3. The Commissioner,
Karur Municipality,
Karur, Karur District.

+1 CC to M/s.K.R. LAXMAN, Advocate (SR-99820[F] dated 20/11/2019)
+1 CC to M/s.L.P.MAURYA, Advocate (SR-100680[F] dated 22/11/2019)

Judgment made in
W.A. [MD] No. 1285 of 2019
Dated: 20.11.2019

MR
SDS (13.12.2019) 4P 6C