



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.25441 of 2019

and

W.M.P(MD) .No.22004 of 2019

S.Parthasarathy

... Petitioner

-Vs-

The Commissioner of Municipal Administration Department
Municipal Administration Department
Ezhilagam Annex
6th Floor, Chepauk
Chennai 600 005

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertains to the impugned order in Na.Ka.No.07/2019/C1, dated 04.11.2019.

For Petitioner : Ms.D.Rukmani

For Respondent : Mr.S.Dhayalan

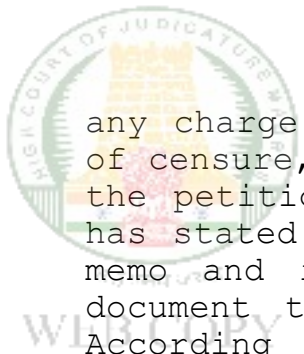
Government Advocate

ORDER

This Writ petition is filed, challenging the order imposing punishment of censure, dated 04.11.2019.

2.Mr.S.Dhayalan, learned Government Advocate takes notice on behalf of the respondent. By consent of both parties, this Writ petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, while he was working as Municipal Commissioner, Virudhunagar, a memorandum, dated 19.02.2019, was issued to him stating that for alleged misconduct mentioned therein, disciplinary proceeding is proposed to be taken under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner was called upon to submit the representation within 15 days. The petitioner submitted the representation on 19.03.2019. According to the petitioner, subsequently, no charge memo was issued and no explanation was submitted for the same. The petitioner and no enquiry was conducted. Without



any charge memo and enquiry, the respondent has imposed punishment of censure, by the impugned order. The learned counsel appearing for the petitioner contended that the respondent in the impugned order has stated that he has perused the documents related to the charge memo and imposed punishment, but he has not furnished the said document to the petitioner to enable him to submit explanation. According to the petitioner, the memorandum dated 19.02.2019 and punishment imposed are only with a view to create a blackmark in the service of the petitioner and prayed for allowing this Writ petition.

4.The learned Government Advocate appearing for the respondent submitted that the petitioner in the Review Meeting held on 29.12.2018 used unparliamentary words against the Regional Director of Municipal Administration and refused to obey the order of his Superior. For the said misconduct, by memorandum dated 19.02.2019, charges were levelled against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and after considering the representation of the petitioner, punishment of censure was imposed. There is no illegality in the order passed by the respondent and prayed for dismissal of this Writ petition.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

6.From the materials on record, it is seen that the petitioner was issued with memorandum dated 19.02.2019, mentioning certain alleged misconducts committed by him. After narrating those misconducts, the respondent has stated that the disciplinary proceeding is proposed to be taken against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and directed the petitioner to submit his representation within 15 days. The petitioner submitted his representation dated 19.03.2019. A reading of the memorandum, dated 19.02.2019, shows that it is not a charge memo, but, it is only a proposal to initiate departmental proceedings against the petitioner. Subsequent to the representation submitted by the petitioner, the respondent did not issue any charge memo and did not give any opportunity to the petitioner to submit his explanation. From the impugned order, it is seen that the punishment was imposed on the petitioner only based on the memorandum dated 19.02.2019, which is termed as charge memo. The respondent has erroneously termed the said memorandum as charge memo. Insofar as the respondent has not issued any charge memo and has not given any opportunity to the petitioner to submit his explanation, the impugned order is invalid and illegal. Hence, the impugned order is liable to be set aside and accordingly, it is set aside.



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W.P.(MD)No.25441/2019

7. In the result, this Writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

msa

To

The Commissioner of Municipal Administration Department
Municipal Administration Department
Ezhilagam Annex
6th Floor, Chepauk
Chennai 600 005

+1 CC to M/s.SPL GP (SR-102958[F] dated 02/12/2019)
SMA/19/12/19/3P/3C

W.P. (MD) No.25441 of 2019

and

W.M.P (MD) .No.22004 of 2019

29.11.2019