

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.7041 of 2019

ORDER:

This Writ Petition is being disposed of at the admission stage with the consent of both the parties.

2. This Writ Petition is filed seeking a Writ of Mandamus to call for the records pertaining to the charge memo, dated 20-06-2018, issued by 3rd respondent and set it aside as it is arbitrary, illegal and contrary to law and further direct the respondents to change the Enquiry Officer as he is conducting enquiry in a very casual manner and concluded the entire enquiry proceedings within one day without following the basic principles and violating the CCA Rules.

3. Heard Sri J.Sudheer, learned counsel for the petitioner and the learned Government Pleader for Services-I appearing for the respondents.

4. Petitioner contends that he is working as Senior Assistant and he was kept as In-charge Sub Registrar. It was alleged by the disciplinary authority that petitioner while working as In-charge Sub Registrar, had registered certain documents without following the procedure. The disciplinary authority has initiated disciplinary proceedings, a charge memo was also served on the petitioner on 20-06-2018. Thereafter, the petitioner has submitted his explanation denying the charges and not satisfied by the said explanation, the disciplinary authority had appointed Enquiry Officer i.e. District

Registrar to conduct enquiry against the petitioner and the Enquiry Officer had issued notice to the petitioner to appear in the enquiry. The petitioner has attended the enquiry on 07-03-2019 and later on, the case was adjourned to 12-03-2019. He further contends that on 12-03-2019, the Presenting Officer was examined as witness and thereafter the Enquiry Officer, simply directing the petitioner to submit his defence within ten days, strangely concluded the enquiry on the very same day. He further contends that no witnesses were examined and no documents were marked in the said enquiry except the Presenting Officer had deposed as a witness and enquiry was concluded. He further contends that the Enquiry Officer has acted in a biased manner and without following the principles of natural justice, has concluded the enquiry in a single day. Therefore, he contends that a direction may be given to the respondents to change the Enquiry Officer and to pass appropriate orders.

5. Learned Government Pleader for Services-I appearing for the respondents contends that the case of the petitioner would be examined and appropriate orders will be passed. He further contends that since there is dearth of officers in the department to act as Enquiry Officer, it will not be possible to change the Enquiry Officer in the middle of the enquiry and contends that since the petitioner has not chosen to examine any of the witnesses, the enquiry was concluded on the very same day. He further contends that if the petitioner wants to avail one more opportunity, every opportunity would be given to the petitioner and after complying with the

principles of natural justice only, enquiry will be concluded in accordance with law.

6. This Court, having considered the rival submissions made by both the parties, is of the considered view that the Writ Petition can be disposed of directing the petitioner to submit fresh representation to the respondents seeking change of Enquiry Officer, within two weeks and upon such representation being received, the respondents-disciplinary authority shall consider the same and pass appropriate orders for changing the Enquiry Officer in accordance with Rules, within a period of four weeks thereafter. It is needless to say that if the request of the petitioner for change of Enquiry Officer is considered, the new Enquiry Officer shall re-conduct the enquiry afresh and if the request of the petitioner is not considered, the present Enquiry Officer would conduct enquiry afresh in accordance with Rules, after giving reasonable opportunity to the petitioner to defend himself. The petitioner also shall cooperate with the Enquiry Officer for concluding the enquiry initiated against him.

7. With the above observations, the Writ Petition is disposed of. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 16-04-2019

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