

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.3263 of 2020

C.Kuppusamy

Petitioner

vs.

1. The Engineer-in-Chief, WRD & Chief Engineer (General)
Public Works Department,
Chepuak, Chennai - 600 005.

2. The Enquiry Officer,
The Superintending Engineer, WRD/Director,
State Project Management Unit (SMPU),
Under DRIP, Palar House,
Chennai-5.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records of the 1st respondent Proceedings No.CII (2) 1048/2014-29 dated 27.02.2019 The Engineer-in-Chief, WRD & Chief Engineer (General), Public Works Department, Chepuak, Chennai - 600 005, quash the same consequentially allow the petitioner to retire with all terminal benefits.

For Petitioner : Mr.C.D.Johnson

For Respondents: Mr.S.N.Parthasarathi
Government Advocate

O R D E R

By consent of both sides, this writ petition is taken up for final disposal.

This writ petition has been filed challenging the impugned charge memo issued by the 1st respondent by his proceedings dated 27.02.2019 and for a consequential direction to allow the petitioner to retire from service with all terminal benefits.

3.The case of the petitioner is that he was working as a Assistant Engineer (Electrical) in the Public Works Department. The petitioner was placed under suspension by an order dated 14.05.2015 on the ground that an FIR has been

registered against him in Crime No.07 of 2014 for various offences under Indian Penal Code and POCSO Act. The petitioner was also arrested and remanded to judicial custody in the said criminal case.

4.The petitioner approached this Court by filing Writ Petition No.39774 of 2015 challenging the suspension order and seeking for reinstatement into service. The petitioner attained superannuation and he was not allowed to retire from his service by proceedings dated 27.2.2018.

5.The criminal case ultimately ended in compromise between the parties and this Court, by an order dated 22.11.2018, made in Crl.O.P.No.24167 of 2018 was pleased to quash the criminal proceedings. This was also brought to the notice of the respondents by the petitioner.

6.The 1st respondent, by his proceedings dated 27.02.2019, has now issued a charge memo against the petitioner with regard to the very same incident which was the subject matter of the criminal case. The said charge memo has been challenged in the present writ petition on the ground that the criminal proceedings itself came to be quashed on the ground of compromise between the parties and therefore no useful purpose will be served in continuing with the departmental proceedings. The petitioner also made a representation in this regard to the respondents on 27.09.2019. Since the same was not considered, the present writ petition has been filed before this Court.

7.Heard Mr.C.D.Johnson, learned counsel appearing on behalf of the petitioner and Mr.S.N.Parthasarathi, learned Government Advocate appearing on behalf of the respondents.

8.A careful reading of the charge memo shows that the charge against the petitioner pertains to the criminal case that was filed against the petitioner. Therefore, according to the petitioner, no useful purpose will be served by going through an enquiry, since, the same witnesses will have to come before the enquiry officer and depose. Therefore, the petitioner has made a representation to the respondents to drop the charges.

9.This Court has a very limited scope of interfering with the charge memo. However, the respondents must necessarily consider as to whether any useful purpose will be served in proceeding further with the enquiry since, the person who had complained against the petitioner has subsequently married the petitioner and the criminal case has also ended in compromise. It is the same witnesses who are also going to be examined during enquiry.

10. In view of the above, there shall be a direction to the 1st respondent to consider the representation made by the petitioner on 27.09.2019 in line with the subsequent developments that has taken place in this case and consider whether any useful purpose will be served in proceeding further with the enquiry. Orders shall be passed in this regard within a period of four weeks from the date of receipt of copy of this order.

11. This writ petition is disposed of with the above directions. No Costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

ssr

To

1. The Engineer-in-Chief, WRD & Chief Engineer (General)
Public Works Department,
Chepuak, Chennai - 600 005.
2. The Enquiry Officer,
The Superintending Engineer, WRD/Director,
State Project Management Unit (SMPU),
Under DRIP, Palar House,
Chennai-5.
3. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.C.D.Johnson, Advocate SR.No.10673

+1cc to Government Pleader SR.No.12011

W.P No.3263 of 2020

RSI (CO)
GMY (27/02/2020)