

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.10173 of 2020

Major.A.Arockia Doss

... Petitioner

vs.

1.The Military Secretary,
Military Secretary's Branch (MS 12A),
IHQ, MoD(Army),
Kashmir House, Rajaji Marg,
New Delhi-110 011

2.The General Officer Commanding
in Chief (GOC-in-C),
Headquarters Southern Command,
Pune, Maharashtra,
Pin-411 001

3.The General Officer Commanding (GOC),
Headquarters,
Dakshin Bharat Area,
Island Grounds, Chennai-600 009

4.The Chief Engineer,
Headquarters Chief Engineer,
Chennai Zone, Chennai-600 009.

5.A.Rita Mary

..... Respondents

Prayer: Writ Petition filed under Section Article 226 of the Constitution of India praying Writ of mandamus, directing the 2nd and 3rd respondents to defer the complaint given by the 5th respondent dated 20.07.2019 taken on file in connection with show cause notice letter No.A/2408112/513/HR, dated 17 Feb 2020.

For Petitioner : Mr.N.Vijaya Basker
For Respondents : Mrs.Meenakumari

ORDER

The matter is taken up through Web hearing.

2.The petitioner is working as Major under the control of the third respondent. He was issued with a show cause notice dated 17.02.2020 on the basis of the complaint given by the 5th respondent. The 5th respondent is none other than the petitioner's estranged wife. According to the averments in the affidavit, the relationship between the petitioner and 5th respondent has been strained for sometime and several complaints have been filed, including complaints before the jurisdiction police and in response to the said complaints, counseling was also conducted in order to find out a solution to the issues between the petitioner and 5th respondent.

3.As a fallout of the dispute, the 5th respondent appears to have submitted a representation seeking maintenance for herself and her children and regarding which, a show cause has been issued on 17.02.2020. The prayer in the writ petition is to direct the second and third respondent to defer the complaint given by the 5th respondent.

4.There are two issues as to the maintainability of the writ petition. The petitioner being in Uniformed Service, i.e. in Defence Force, is amenable to the jurisdiction of Armed Forces Tribunal Act, 2007. If the petitioner has any grievance against the show cause notice, it is open to him to approach the Tribunal under the said Act and not this Court. On this ground alone, the writ petition is liable to be dismissed.

5.Even assuming that this Court has jurisdiction to entertain the writ petition, this Court is unable to appreciate as to how a mandamus could be issued on the basis of self-serving averments in the affidavit. The petitioner has not made out any case for grant of such direction as prayed for in the writ petition. This Court's jurisdiction under Article 226 of the Constitution of India cannot be invoked to stall enquiry into the complaint given by the 5th respondent, by the competent authorities concerned. It is entirely a matter between the petitioner and his employer and this Court's jurisdiction cannot be dragged into the veracity of the complaint given by the 5th respondent.

6.This writ petition, on the whole, is completely misconceived and liable to be rejected outright and therefore, the same is dismissed as not maintainable as well as on merits.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrm/msk

To

- 1.The Military Secretary,
Military Secretary's Branch (MS 12A),
IHQ, MoD(Army),
Kashmir House, Rajaji Mark,
New Delhi-110 011
- 2.The General Officer Commanding
in Chief (GOC-in-C),
Headquarters Southern Command,
Pune, Maharashtra,
Pin-411 001
- 3.The General Officer Commanding (GOC),
Headquarters,
Dakshin Bharat Area,
Island Grounds, Chennai-600 009
- 4.The Chief Engineer,
Headquarters Chief Engineer,
Chennai Zone, Chennai-600 009.

W.P.No.10173 of 2020

LN(CO)

GN(25/09/2020)



WEB COPY