

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.09.2020

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WP No.12315 of 2020
and WMP Nos.15124 & 15125 of 2020

S.Kamalraj

.. Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Secretary,
Home Department,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 600 007.

3. The Joint Commissioner of Police,
Office of the Joint Commissioner of Police,
Greater Chennai Police,
East Zone, Chennai - 600 008.

4. The Deputy Commissioner of Police,
Greater Chennai Police,
Triplicane District, Chennai.

5. The Assistant Commissioner of Police,
Greater Chennai Police,
Egmore Range, Chennai.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned charge memo dated 10.06.2020 issued by the 5th respondent under Tha.Ko.No.51/ThaPi/KiMa/2019 received on 27.07.2020 and all proceedings related thereto and quash the same and consequently direct the 3rd respondent to re-instate the petitioner as Head Constable in F-2, Egmore Police Station with all back wages and all other benefits.

For Petitioner : Mr.Prakash Goklaney

For Respondents: Mr.P.S.Sivashanmuga Sundaram
Sp. Government Pleader.

O R D E R

This matter is taken up today, through Web hearing.

2. The writ petition has been filed seeking for the following prayer:

"for issuance of Writ of Certiorari Mandamus, calling for the records relating to the impugned charge memo dated 10.06.2020 issued by the 5th respondent under Tha.Ko.No.51/ThaPi/KiMa/2019 received on 27.07.2020 and all proceedings related thereto and quash the same and consequently direct the 3rd respondent to re-instate the petitioner as Head Constable in F-2, Egmore Police Station with all back wages and all other benefits."

3. The petitioner is working as a Head Constable, attached to Egmore Police Station, Chennai. He was recently placed under Suspension vide order dated 20.04.2020, on the basis of a complaint from a third party in regard to a land transaction involving the petitioner. In pursuance of the suspension order, in response to the complaint, a charge memorandum was issued against the petitioner on 10.06.2020. The suspension order was put to challenge by the petitioner in WP No.9065 of 2020. But, this Court vide order dated 10.07.2020 dismissed the writ petition, finding no grounds for interference. The present writ petition is filed challenging the charge memorandum dated 10.06.2020.

4. According to the petitioner, he was wrongly implicated in the complaint and has narrated series of events and transaction attempting to impress upon this Court, as to how he was not involved in the complaint at all. The entire affidavit substantially contains only the factual averments in the form of petitioner's explanation to the allegation against him.

5. It is also averred in the affidavit that the documents sought by him for giving explanation have not been furnished and it is also stated that some interpolation has been made in the charge memorandum and therefore, the charge memorandum is smacking of malafides and unfairness. It is also averred that the charge memorandum was issued after the same was made ready after a period of one month. It is further apprehended that the charge memorandum would be proceeded without following the principles of fair play and reasonableness. On the basis of the these averments and grounds, the charge memorandum is being assailed.

6. This Court is not persuaded by the averments and the grounds raised in the affidavit filed in support of the writ petition.

7. Mr. Prakash Goklaney, learned counsel for the petitioner would strongly reiterate the grounds and the averments contained in the affidavit in his submission.

8. However, this Court is not inclined to entertain the writ petition on the basis of the self serving averments of the petitioner and intervene at the preliminary stage of the disciplinary action initiated against the petitioner. The grounds raised in the affidavit, as such, do not merit any serious consideration, that too, to interfere with the disciplinary action at a very initial stage of proceeding with the charge memorandum.

9. If any action by competent authority, in not fulfilling the established principles of natural justice, as apprehended by the petitioner, it is always open to the petitioner to challenge the disciplinary proceedings, while final order is passed. It is certainly not open to the petitioner to stall the disciplinary action on the basis of shallow grounds raised by the petitioner in the affidavit.

10. In regard to the ground that the documents mentioned in the charge memorandum were not furnished, nothing is disclosed in the materials as to when the documents were demanded to be furnished and whether there was any order passed by the disciplinary authority refusing to furnish the copies. However, this Court finds that the petitioner has indeed addressed a letter seeking documents that are sought to be relied on by the department. But, by his own communication dated 13.08.2020, he had admitted that earlier request made vide a letter dated 03.08.2020 was returned to him with the remarks "Insufficient address".

11. In any case, if the documents are sought by the petitioner relied upon by the respondents in charge memorandum, copies of the documents need to be furnished to him, in compliance with the principles of natural justice and the rules. However, on that non compliance alone, the charge memorandum cannot be interfered with.

12. Therefore, this Court is not inclined to admit the writ petition and hence, the writ petition is dismissed. However, in case the documents relied on in the charge memorandum have not been furnished to the petitioner, the respondents in compliance with the principles of natural justice and also in tune with the procedure for the conduct of disciplinary action, shall furnish the copies of the documents

and shall proceed with the enquiry. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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Egmore Range, Chennai.

+1cc to Mr. Prakash Goklaney, Advocate SR.29365
+1cc to the Government Pleader SR.29511

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LN(CO)
CB(21/09/2020)

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