

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.13351 of 2020
and W.M.P.Nos.16492, 16494 and 16495 of 2020

Tmt.K.Shanthi

... Petitioner

-Vs-

- 1 The Commissioner
Arakkonam Municipality
Arakkonam.
- 2 The Commissioner of Municipal Administration
No.75, Santhome High Road, MRC Nagar
RA Puram, Chennai 600 028.
- 3 The Commissioner, Krishnagiri Municipality
Krishnagiri District - 635 001. ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records Relating to the Impugned Charge Memo issued by the 1st Respondent in NA.KA.NO 2751/2016/C1 dated 26.2.2018 and quash the same and consequently to direct the 2nd Respondent to consider the name of the Petitioner in the Panel of Town Planing officer Grade- I Prepared for the year 2019-2020 on par with her Junior Thiru P Velayutham Who was promoted as town Planning officer grade- 1 on 26.7.2019 with all monetary and service benefits.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.V.Kathirvelu
Special Government Pleader

O R D E R

The matter was taken up through Web-hearing.

2. The petitioner has filed this writ petition challenging the charge memorandum issued against her under Rule 8(2) of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules,

1970. The petitioner was working as a Town Planning Officer Grade-II. Under the charge memorandum, five articles of charges were framed against her and the petitioner has also submitted her defence statement on 09.03.2018 in response to the charge memorandum to the first respondent. According to the petitioner, that the first respondent has not taken any further action either appointing enquiry officer or dropping further action in the matter on acceptance of the defence statement submitted by the petitioner. After a delay of 19 months, the second respondent appointed the enquiry officer on 05.09.2019 and enquiry was fixed on 19.11.2019 and on completion of the same, no report has been submitted as on date. Therefore, the petitioner is aggrieved by the delay of 28 months since the initiation of disciplinary action against her.

3. In the writ petition, number of grounds have been raised placing reliance on instructions issued by the Government and decisions of various Courts on the aspect of delay in completion of the disciplinary action against the Government servants. Learned counsel for the petitioner Mr.S.N.Ravichandran submitted that the delay of 28 months in completion of disciplinary proceedings by itself vitiates the entire proceedings. The respondents have not followed the various instructions and the legal principles enunciated on the aspect of delay and therefore the charge memo is put to challenge.

4. This Court is unable to be persuaded by such specious submission. Delay in completion of disciplinary action cannot be a factor in all circumstances compelling this Court to interfere at the stage of charge memo itself. In fact, from the narrative contained in the affidavit it is seen that enquiry officer has been appointed and enquiry was also conducted as late as on 19.11.2019. Moreover, in view of the extraordinary crisis faced by the State Administration, the action initiated against the petitioner could not be completed in due course of time.

5. Therefore, it is not open to the petitioner to take advantage of the present crisis and put the charge memo on the basis of delay alone. The grounds and the reliance placed on the instructions, in the opinion of this Court, cannot be applied blindly and mechanically in order to interfere and quash the charge memorandum. This Court is not inclined to interfere in this writ petition and at this the learned counsel for the petitioner Mr.Ravichandran would request this Court to direct the authorities to complete the disciplinary proceedings and pass final orders within the time stipulated by this Court.

6. Mr.V.Kathirvelu, learned Special Government Pleader, who appeared at the time of admission on behalf of the respondents,

in response to such request made by the learned counsel for the petitioner, submitted that if such a direction is issued in this regard for early completion of the disciplinary action, the same would be complied with.

7. Therefore, the writ petition is disposed with a direction to the respondents / competent authority to process and complete the disciplinary action expeditiously in terms of the Rule position and the disciplinary authority on the enquiry report being submitted, shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.

8. The Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Commissioner
Arakkonam Municipality
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- 2 The Commissioner of Municipal Administration
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- 3 The Commissioner, Krishnagiri Municipality
Krishnagiri District - 635 001.

+1 cc to M/s.S.N.Ravichandran, Advocate Sr.No. 31108

SSV(CO)
RMP(15/10/2020)

W.P.No.13351 of 2020