

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.766 of 2020

ORDER

This writ petition is filed seeking the following relief:

“.....to issue a writ, order or direction particularly a writ of Mandamus declaring the Charge Memo issued *vide* G.O.Rt.No.326, dated 27.4.2019 of the 1st respondent as illegal, bad and arbitrary and consequently set aside the same and pass such other order or orders as this Honorable Court may deem fit and proper in the circumstances of the case.”

Heard Sri J.R.Manohar Rao, learned counsel appearing for the petitioner, and learned Government Pleader for Services-III appearing for the 1st respondent.

It is the case of the petitioner that he is working as Superintendent Engineer. While he was discharging his duties as Executive Engineer, charge memo dated 27.4.2019 has been issued to him alleging that he has not deducted Rs.10.99 lakhs from the contractor towards 1% Labour Cess in work No.6 i.e., Strengthening and Re-carpeting of BT roads from ST.Anns School to Jabber Apartments, Begumpet, SP Road, Secunderabad in MRD-2, GHMC, Secunderabad. In the agreement, with regard to 1% Labour Cess, it is mentioned that the Labour Cess at 1% will be recovered from the contractor's bills and will be reimbursed to the contractor as indicated in Part-B, if the execution period of the works beyond twelve months and involves engagement of 10 workers

or more. Since the work was completed within four months, the question of recovering 1% Labour Cess from the contractor does not arise. The petitioner has submitted his explanation on 26.11.2019 denying the charge leveled against him. But, so far no orders have been passed.

Learned counsel appearing for the petitioner contended that the 1st respondent has not passed any orders either proceeding against the petitioner or dropping the disciplinary proceedings by duly taking into consideration the explanation submitted by the petitioner. It is further contended that due to the pendency of the charge memo, the respondents are not considering his case for further promotion. It is prayed that the 1st respondent be directed to consider the explanation submitted by the petitioner on 26.11.2019 and pass appropriate orders either dropping the disciplinary proceedings or concluding the enquiry within a reasonable period.

Learned Government Pleader appearing for the 1st respondent contended that the 1st respondent would consider the explanation submitted by the petitioner, and if the explanation submitted by the petitioner is convincing, appropriate orders would be passed by dropping the disciplinary proceedings, otherwise, the 1st respondent would conclude the enquiry in accordance with law.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the writ petition can be disposed of directing the 1st respondent to consider the explanation submitted by the petitioner on 26.11.2019 and pass appropriate orders in accordance with law. If the explanation submitted by the petitioner is convincing, drop the charges, otherwise, it is always open for the 1st respondent to proceed with the charge memo and conclude the disciplinary proceedings in accordance with law, as expeditiously as possible.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 10.01.2020
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