

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.10067 of 2012

R.Radha

.. Petitioner

vs.

1. The State of Tamil Nadu,  
Rep by its Principal Secretary to Government,  
Micro Small and Medium Industries (EII-2) Department,  
Fort St.George, Chennai-600 009.

2. The Industries Commissioner and Director  
of Industries and Commerce,  
Chepauk, Chennai-600 005.

3. The Deputy Director (Industrial Cooperatives)  
/ General Manager,  
INDCOSERVE, Nilgiris.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the 1<sup>st</sup> respondent in its order dated 07.02.2012 in G.O.(2D) No.3, Micro Small and Medium Enterprises (EII-2) Department in pursuant to the Charge Memo dated 18.02.2008 in Rc.No.4678/EG4/07 issued by the 2<sup>nd</sup> respondent, to quash the same.

For Petitioner : Mr.T.Sundar Rajan

For Respondent : Mr.U.M.Ravichandran,  
Special Government Pleader

O R D E R

The petitioner, challenging the impugned order of the first respondent in G.O.(2D) No.3, Micro, Small and Medium Enterprises (EII-2) Department dated 07.02.2012, in by which the petitioner was imposed with punishment of "Censure", has filed the present writ petition.

2. The case of the petitioner is that the second respondent had issued a charge memo dated 18.02.2008, framing charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline &

Appeal) Rules, alleging that the petitioner has committed certain irregularities while she was working as Industrial Cooperative Officer in the District Industries Centre, Vellore for the period between August 2003 and March, 2006. The petitioner submitted her explanation to the charge memo on 19.03.2008 and also sought for certain documents, but the respondents have not furnished the same, but proceeded with the enquiry. The petitioner also made a representation dated 18.08.2008 to the second respondent requesting to furnish certain documents, but the second respondent failed to respond. Pursuant to calling for further explanation, which was submitted by the petitioner, the disciplinary authority, considering the gravity of the charges, imposed a punishment of "Censure" and the same was also confirmed by the Appellate Authority.

3. The learned counsel appearing for the petitioner would submit that the respondents have violated the principles of natural justice by non-furnishing the documents sought for by the petitioner, before passing the impugned orders and on that ground, the entire proceedings are liable to be vitiated.

4. Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by the respondents, wherein it has been stated that the petitioner, in order to purposefully prolong the disciplinary proceedings, has requested for furnishing certain documents and the petitioner was provided opportunity to peruse the records before the Enquiry Officer during enquiry and furnish his explanation to the charge memo and therefore, the contention of the petitioner is unsustainable.

5. This Court has considered the submissions made and also perused the materials placed before it.

6. It is not in dispute that the petitioner has requested to furnish certain documents from the respondents for defending her case effectively in the disciplinary proceedings, but the respondents have not furnished the same and proceeded with the enquiry and ultimately the disciplinary authority passed the impugned order, imposing punishment of "Censure".

7. It is brought to the notice of this Court that on account of punishment of Censure, the petitioner's name was not included in the promotion panel for the post of Assistant Director of Industries and Commerce (Industrial Cooperatives) of the year 2007-2007 and therefore, she filed W.P.No.12476 of 2013 and this Court, vide order dated 20.08.2020 has set aside the impugned orders and directed the respondents to include the name of the petitioner in the promotion panel and in pursuant to the said order, the petitioner also got promoted and received other

consequential benefits and also retired from service and the only grievance of the petitioner is that the punishment of "censure" stands as a stigma and therefore, prays for interference.

8. In view of the fact that the petitioner has already got promotion and also received all other consequential benefits and considering the fact that the disciplinary proceedings were conducted by the disciplinary authority without furnishing the documents sought for the petitioner, this Court has no hesitation to hold that the impugned orders are passed in violation of principles of natural justice.

9. Accordingly, this Writ Petition stands allowed and the impugned order of the first respondent dated 07.02.2012 in G.O. (2D) No.3, Micro Small and Medium Enterprises (EII-2) Department, in pursuant to the Charge Memo dated 18.02.2008 in Rc.No.4678/EG4/07, issued by the second respondent, are quashed. No costs.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Principal Secretary to Government,  
The State of Tamil Nadu,  
Micro Small and Medium Industries (EII-2) Department,  
Fort St.George, Chennai-600 009.
2. The Industries Commissioner and Director  
of Industries and Commerce,  
Chepauk, Chennai-600 005.
3. The Deputy Director (Industrial Cooperatives)  
/ General Manager,  
INDCOSERVE, Nilgiris.

+1cc to the Government Pleader, S.R.No.68325

W.P.No.10067 of 2012

RSV(CO)  
CT 30/12/2021