



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.NO.13217 OF 2021

AND

W.M.P.NO.14019 OF 2021

Mrs.R.Vijayakumari

.. Petitioner

Versus

1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

2. The Managing Director,
Chennai Metropolitan Water Supply & Sewerage Board,
(Personnel and Administrative (VC) Department)
No.1, Pumping Station Road,
Chintadripet,
Chennai - 600 002.

.. Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd respondent to furnish the certified copies of the documents which were mentioned in the Charge Memo No.CMWSSB/P and A/VC2/32156/2019 dated 27.02.2021 to the petitioner forthwith to enable her to defend in the departmental enquiry.

For Petitioner : Mr.A.Ilayaperumal

For Respondents : Mr.C.Kathiravan
Government Advocate for R1

Mr.Vigneswaran for R2



O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the 2nd respondent to furnish the certified copies of the documents which were mentioned in the Charge Memo No.CMWSSB/P and A/VC2/32156/2019 dated 27.02.2021 to the petitioner forthwith to enable her to defend in the departmental enquiry.

2. The petitioner joined as Assistant Engineer in CMWSS Board on 13.05.1987. Later, she was promoted as Superintending Engineer in CMWSSB from the month of September 2019. While she was working as Superintending Engineer in Head Office of CMWSSB, Chennai, on 01.11.2019, she was arrested in connection with a trap case, where the allegation was that she demanded a sum of Rs.1 Lakh as bribe for providing sewerage and water connection.

3. Though the learned counsel for the petitioner states that the petitioner has not committed any offence as alleged by the DV & AC Department, it is admitted that a crime was registered against the petitioner in Crime No.22 of 2019. The petitioner was under suspension by the 2nd respondent and the disciplinary proceedings are also pending against her. She was issued with a Charge Memo, dated 27.02.2021. She filed a writ petition earlier in W.P.No.6072 of 2021 challenging the order of the 2nd respondent and the said writ petition was also dismissed. Subsequently, she submitted a representation to the 2nd respondent to furnish the documents which were mentioned in the Charge Memo, dated 27.02.2021. The said representation of the petitioner was not considered. Hence, the present petition has been filed before this Court.

4. The case of the petitioner is that the documents which are required by the petitioner are the basis of the Charge Memo and she will be put to great hardship, if the respondents do not furnish the entire documents as mentioned in the Charge Memo, dated 27.02.2021. The petitioner's grievance is that she will be put to irreparable injury if she is prevented from having access to the documents.

5. Relying upon Regulation 10(7) of CMWSS Board Employees (Discipline and Appeal) Regulations, 1978, learned counsel for the respondents submitted that the respondent is not required to give copies of the documents, but the petitioner can be permitted to inspect the documents in connection with the enquiry as contemplated in the Regulations. As per Regulation 10 (7) of CMWSS Board, the competent authority has the discretion to give opportunity to the employee to inspect any document in connection with the enquiry.



6. The discretion referred to in Regulation 10(7) of CMWSS Board cannot be treated as if the competent authority cannot furnish copies of documents which are actually required for the enquiry. Even if Rules do not provide for furnishing of the copies of the documents which are relied upon by the employer, it cannot be interpreted to exclude principles of natural justice. The Rule or Regulations have to be interpreted to effectuate principles of natural justice.

7. This Court, in the absence of rules, has been guided by precedents of the Hon'ble Supreme Court holding that wherever the Rules do not provide observance of principles of natural justice, the principles of natural justice can be read in to the Rules, so as to make the Rules intravires. Though this Court does not agree with all the contentions of the petitioner on merits, is not inclined to express any opinion on the merits of the case pleaded by the petitioner in this Writ Petition. However, for the purpose of expediting the enquiry and to ensure justice and effective adjudication, this Court directs the 2nd respondent to furnish the certified copies of the documents which are mentioned in the Charge Memo, dated 27.02.2021 to the petitioner, unless any such documents fall within the exception (documents which cannot be disseminated for good and sufficient reasons), within a period of three weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St. George,
Chennai - 600 009.



2. The Managing Director,
Chennai Metropolitan Water Supply & Sewerage Board,
(Personnel and Administrative (VC) Department)
No.1, Pumping Station Road,
Chintadripet,
Chennai - 600 002.

+1cc to Mr.A.Ilayaperumal, Advocate, S.R.No.29708
+1cc to the Government Pleader, S.R.No.29830

W.P. NO.13217 OF 2021 AND
W.M.P. NO.14019 OF 2021

JP-II (CO)
PBS/04/08/2021