



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **M. S. RAMESH**

W.P.(MD)No.4280 of 2021

S.Indhumathy : Petitioner

Vs.

1.The Commissioner of Labour,
Chennai - 600 006.

2.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
Chennai -34. : Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to appoint new Enquiry Officer and to conduct the enquiry into 17(b) charge in Memo No.Aa2/1269/18, dated 03.08.2018, leveled against the petitioner within a time limit to be fixed by this Court.

For Petitioner
For R1

:Mr.T.Sakthikumaran
:Mr.P.Mahendran
Additional Government Pleader

ORDER

The petitioner herein, while serving as Assistant Commissioner of Labour, was served with the impugned charge memo, dated 03.08.2018 in connection with certain alleged violations in awarding compensation to the legal heirs of the deceased workers. The charge memo was challenged in this Writ Petition predominately on the ground that the Officer, namely, Tmt.T.Tamilarasi, Additional Labour Officer, Chennai, who was appointed as an Enquiry Officer, is the same person, who had recommended the petitioner to be placed under suspension and had also made some modifications in the charges framed against her, when she was holding the additional charge of the Secretary, Tamil Nadu Manual Workers Welfare Board.

2.Though such a ground was reiterated by the learned Counsel for the petitioner, the learned Additional Government Pleader pointed out the averments in this regard in the affidavit filed in support of this Writ Petition and submitted that it is not correct to state that Tmt.T.Tamilarasi, was the same person, who had issued the show cause notice and is also not the present Enquiry Officer as



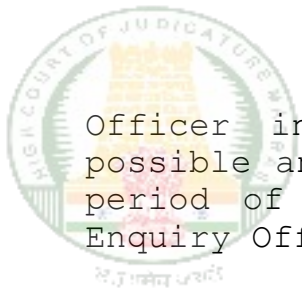
found in paragraph 7 of that affidavit. The learned Additional Government Pleader also placed reliance on the averments in the counter affidavit and submitted that the petitioner herein had been prolonging the enquiry proceedings by taking frequent adjournments.

3. It is no doubt that the grounds raised by the learned Counsel for the petitioner has not been raised in the affidavit filed in support of the Writ Petition. Nevertheless, such oral ground has been answered in the counter affidavit filed by the Commissioner of Labour, while narrating the facts of the case. According to the Commissioner of Labour, Tmt.T.Tamilarasi, had made a request on 18.05.2018 to the first respondent to relieve her from conducting the enquiry on the ground that she was instrumental in recommending the petitioner to be placed under suspension and had also made some modifications in the charges framed against the petitioner, while she was holding the additional charge of Secretary, Tamil Nadu Manual Workers Welfare Board. Such a request from Tmt.T.Tamilarasi, has been rejected by the first respondent on the ground that the suspension order was issued only by the Government based on the recommendations of the Commissioner of Labour and that the charge memo was issued by one Thiru.Baskaran, who was the then Secretary, Tamil Nadu Construction Workers Welfare Board.

4. The very purpose of conducting the departmental proceedings is to ensure that the delinquent is given due opportunity, during the course of the proceedings and such proceedings should be done in a fair and transparent manner, without any iota of doubt or bias. In the instant case, the involvement of the Enquiry Officer, namely, Tmt.T.Tamilarasi, has been ratified by herself in her letter, dated 18.05.2018 to the first respondent herein, admitting that she was instrumental in recommending the petitioner's suspension and for modification of some of the charges. When the ground of bias has been specifically pleaded before this Court and also the involvement of the Enquiry Officer has also been admitted, it would be appropriate that the respondents be directed to appoint some other Enquiry Officer in the place of Tmt.T.Tamilarasi.

5. This Court would like to emphasize that the conduct of Tmt.T.Tamilarasi, in offering to have her candidature relieved from the enquiry requires to be appreciated and that this Court does not find fault with any of the respondents in contemplating to continue with the same Enquiry Officer. However, I am constrained to recommend a different Enquiry Officer only to ensure that the departmental action should not be seen to have done been in an indiscriminative manner.

6. In the light of the above observations, there will be a direction to the first respondent herein to continue with the charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1973, by appointing a new Enquiry



Officer in the place of Tmt.T.Tamilarasi, as expeditiously as possible and endeavour to complete the proceedings atleast within a period of three months from the date of appointment of the new Enquiry Officer.

7.The Writ Petition stands ordered accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Commissioner of Labour,
Chennai - 600 006.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-11431[F] dated
16/03/2021)

+1 CC to M/s.SPL GP (SR-11849[F] dated 17/03/2021)

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