



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 2996 of 2022
and WMP.Nos. 3171 & 3172 of 2022

M.Muthukumar

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. By its Principal Secretary to Government,
Municipality Administration & Water Supply Department,
Secretariat, Fort St.George,
Chennai-600009.

2.The Director,
Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road,
Chennai-600028.

3.The District Collector,
Tiruppur District
Tiruppur.

4.The District Social Welfare Officer,
District Social Welfare Office,
No.35,36, District Collectors' Office,
Tiruppur.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent in Na.Ka.No. 24366/2021/C3 dated 11.11.2021 quash the same and thus render justice.

For Petitioner : Mr.Rajagopalan, Senior Counsel
For M/s.L.P.Maurya

For Respondents : Mr.S.Prabhakaran, GA



ORDER

The case of the petitioner is that the petitioner was appointed as Municipal Commissioner (Grade-II) in the respondent-Corporation. While the petitioner working in as Executive Officer -Grade-II, one of the DBC workers namely Jenitha filed a complaint alleging that the petitioner had asked her to do domestic work in the petitioner's house and that the petitioner had sexually harassed her. Based on the aforesaid complaint, the respondent had initiated disciplinary proceedings and issued a charge memo under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. Challenging the same, the present writ petition is filed.

2. The learned Senior Counsel appearing for the petitioner has submitted that the impugned charge memo dated 11.11.2021 issued by the 2nd respondent to initiate departmental enquiry against the petitioner under Rule 17(B) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules is based on the enquiry report of the 4th respondent who has no jurisdiction to enquire into a complaint alleging sexual harassment. The learned senior counsel for the petitioner has further submitted that only the Local Committee constituted under Section 6 of The Sexual Harassment of Women at Workplace Act, 2013 has jurisdiction to enquire into a complaint. Therefore, the impugned order issued based on the enquiry report submitted by the 4th respondent is liable to be set aside.

3. Counter affidavit has been filed on behalf of the respondents, wherein it is stated that the petitioner had violated Rule 20-B of the Tamil Nadu Government Servant Conduct Rules, 1973, therefore as per aforesaid Rule, preliminary enquiry was conducted by the 4th respondent/District Social Welfare Officer, Tiruppur. Rule 20-B of the Tamil Nadu Government Servant Conduct Rules, 1973 is extracted hereunder;

- (i). No Government servant shall indulge in any act of sexual harassment of any woman at the work place.
- (ii). Every Government Servant who is in charge of a work place shall take appropriate steps to prevent sexual harassment to any woman at such work place.

Explanation: For the purpose of this rule, "sexual harassment" include such unwelcome sexually determined behaviour, whether directly or by implication as : - (a) physical contact and advances; or (b) demand or request for sexual favours; or (c) sexually coloured remarks; or (d) showing any pornography; or (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature'."



4. The learned Additional Government Pleader by relying upon the statement made in the counter affidavit, has submitted that the District Collector, Tiruppur has forwarded the preliminary enquiry report of District Social Welfare Officer, Tiruppur to the 2nd respondent/Director of Municipal Administration and recommended to initiate disciplinary action against the petitioner.

5. The learned Additional Government Pleader has further submitted that a Criminal Case in Cr.M.P.No. 251 of 2022 was also filed against the petitioner before the Principal Sessions Court, Tiruppur. The District Collector in letter in Roc.No.19438/2021/A3, dated 02.03.2022 stated that in order to avoid law and order situation, because of the agitation of municipal employees of Kangeyam Municipality, the preliminary enquiry was conducted by the District Social Welfare Officer. It is also stated in the said letter that Local Complaint Committee has been formed and he requested the Local Complaint Committee to conduct an enquiry against the petitioner vide letter dated 08.03.2022.

6. Heard the learned senior counsel appearing for the petitioner and learned Government Advocate appearing for the respondents and perused the materials available on record.

7. Admittedly, based on the complaint given by one Jenitha, alleging sexual harassment at work place, a charge memo was issued to the petitioner and the District Social Welfare Officer, Tiruppur has conducted enquiry and submitted a report. Since, the complaint was made under against the petitioner under the provision of Sexual Harassment of Women at Work Place (Prevent, Prohibition and Redressal) Act, 2013, as rightly pointed out by the learned senior counsel for the petitioner, the competent authority to enquire into the allegation against the petitioner is the Local Complaint Committee formed under the said Act. Therefore, the enquiry report submitted by the 4th respondent/District Social Welfare Officer, Tiruppur, who has no jurisdiction and the charge memo issued based on the said enquiry report submitted by the 4th respondent/District Social Welfare Officer is not valid and the same is liable to be quashed. Further the District Collector in Letter in Roc.No. 19438/2021/A3, dated 02.03.2022 has also stated that Local Complaint committee has been formed and he has also requested the said Local Complaint Committee to conduct an enquiry against the petitioner.

8. Considering the submissions made by the learned Senior Counsel for the petitioner and in view of the above statement made in the counter affidavit, this Court is inclined to quash the impugned charge memo dated 11.11.2021. Accordingly, the



following order is passed;

- i. Impugned Charge Memo issued by the 2nd respondent dated 11.11.2021 is quashed.
- ii. It is open to the respondent to initiate necessary action based on the outcome of the report of the Local Complaint Committee and to pass appropriate orders, in accordance with law.

9. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

AK

To

- 1.The Principal Secretary to Government,
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Municipality Administration & Water Supply Department,
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- 2.The Director,
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- 3.The District Collector,
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Tiruppur.
- 4.The District Social Welfare Officer,
District Social Welfare Office,
No.35,36, District Collectors' Office,
Tiruppur.

+1cc to M/s.L.P.Maurya, Advocate, S.R.No. 22956
+1cc to the Government Pleader, S.R.No.23025

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SPD(CO)
TE (22/04/2022)