



W.P.No.33772 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.33772 of 2022
and
W.M.P.No.33284 of 2022

S.Balaji

... Petitioner

Vs.

1.Divisional Officer Fire and Rescue Service,
Kanchipuram District.

2.Assistant Divisional Officer,
Fire and Rescue Service,
Kanchipuram District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the enquiry proceedings dated 25.10.2022 of the second respondent vide கு.எண்.மற்றும் நாள். 03/2022, 04.04.2022 and ந.க.எண். 9141/ஆ/2022 dated 27.07.2020 read with proceeding ந.க.எண். 9141/அ/2020 dated 01.11.2022 and quash the same and consequential direction may be issued to the first respondent to keep the departmental proceedings in abeyance till finalization of the criminal case in S.C.No.93 of 2022 on the file of the District and Sessions Court No.II at Kanchipuram.



W.P.No.33772 of 2018

For Petitioner : Mr.S.Gunasekar
For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

The grievance of the petitioner in this Writ Petition is that the respondents are attempting to pass final orders in the disciplinary proceedings, despite the fact that a criminal case for the very same charge is pending before the Criminal Court.

2. The petitioner has been charged for the offence under Section 302 of I.P.C. and other offences which is pending consideration by the Criminal Court. The petitioner contends that the criminal offences registered against him does not relate to any act done by him during the course of his employment and is a private dispute. According to him, for the same set of facts, the respondents have issued charge memo to him and have initiated disciplinary proceedings and the enquiry officer has also submitted an enquiry report, declaring that the charges framed against the petitioner have been proved. The apprehension of the petitioner is that in due course, final orders will be passed by the disciplinary Authority, imposing punishment on him which according to him is arbitrary and illegal, in view of the fact that

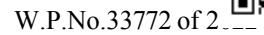


for the same set of charge, a criminal case is already pending before the Criminal Court.

3. Admittedly, the impugned notice dated 01.11.2022 issued by the first respondent only calls upon the petitioner to submit an explanation with regard to the enquiry report wherein the petitioner has been found guilty and no final orders have been passed by the disciplinary Authority.

4. Even before passing of the final order, the petitioner has approached this Court prematurely. The petitioner will have to submit an explanation to the impugned notice dated 01.11.2022 sent by the first respondent. Instead of raising all objections in the reply, the petitioner has filed this Writ Petition prematurely.

5. The grounds raised in this Writ Petition can be very well raised by the petitioner while submitting his reply to the impugned notice dated 01.11.2022 issued by the first respondent and the same will have to be considered by the first respondent on merits and in accordance with law and the first respondent will have to decide as to whether final order of



6. For the foregoing reasons, in view of the fact that the petitioner has approached this Court prematurely, this Writ Petition is disposed of by directing the petitioner to submit his reply / explanation to the impugned notice dated 01.11.2022 sent by the first respondent within a period of two weeks from the date of receipt of a copy of this order and in the said reply / explanation, he is permitted to raise all objections including the objections which he has raised in this Writ Petition. On receipt of the said reply / explanation, the first respondent, who is the disciplinary Authority, shall decide as to whether the disciplinary proceedings initiated against the petitioner will have to be kept in abeyance or not and act accordingly and if the first respondent decides to pass final orders despite the objections raised by the petitioner, he shall pass the same within a period of twelve weeks thereafter.



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7. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

20.12.2022

Index : Yes/No
Speaking Order : Yes / No
ab

To

1.Divisional Officer Fire and Rescue Service,
Kanchipuram District.

2.Assistant Divisional Officer,
Fire and Rescue Service,
Kanchipuram District.



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ABDUL QUDDHOSE. J.,

ab

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