



W.P.(MD).No.21994 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD).No.21994 of 2019

S.Ramasundaramani

... Petitioner

Vs.

1.The Principal Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai-9.

2.The Commissioner,
Municipal Administration,
Chennai-5.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the first respondent in his proceedings G.O.(P)No.270 dated 10.07.2019 Municipal Administration and Water Supply (Na.Pa) Department, confirming the order dated 24.05.2017 passed by the second respondent in his proceedings Na.Ka.No.20236/2015/K2 and quash the same and thus render justice.



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For Petitioner : Mr.PT.S.Narendravasan
For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

ORDER

Based on the proven charges, the petitioner was imposed with a punishment of stoppage of increment for a period of two years, with cumulative effect, through the impugned order in G.O.(P).No.270 Municipal Administration and Water Supply (Na.Pa) Department, dated 10.07.2019.

2. Among the various grounds raised by the petitioner, one of the main ground is that he had been consistently seeking for furnishing of the documents relied upon in the domestic enquiry, which have not been furnished. The learned counsel for the petitioner submitted that even in the further explanation submitted by the petitioner, he had raised this ground that in spite of his request, the documents relied upon in the enquiry have not been furnished to him.



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3. A perusal of the enquiry report reveals that the petitioner herein had made several representations to the Enquiry Officer seeking for furnishing of the documents and has also mentioned about the same in his further explanation. The Enquiry Officer, though has referred to the various representations made by the petitioner seeking for such documents, has not addressed this aspect effectively.

4. It is a mandatory requirement in a domestic enquiry that whenever the Enquiry Officer relies upon certain documents during the course of enquiry, such documents requires to be furnished to the delinquent, well in advance, in order to afford an opportunity to put forth their objections. In the absence of furnishing of such documents, the entire enquiry and the resultant punishment would stand vitiated.

5. In this background, I am of the view that if the disciplinary authority is directed to furnish all the documents relied upon by them pursuant to the charge memo, in order to afford an opportunity to the delinquent to give an effective explanation and raise his defence in the enquiry, the ends of justice could be secured.



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6. In the result, the impugned order, dated 10.07.2019, on the file of the first respondent is quashed. In case the disciplinary authority is of the view that they intend to proceed any further in the matter, liberty is granted to the disciplinary authority to conduct a fresh enquiry, after furnishing all the documents to the petitioner, which they intend to rely upon in the fresh enquiry to be conducted. It is needless to point out that in case the disciplinary authority intends to drop all further proceedings pursuant to the charge memo, it is always open to them to do so.

7. This Writ Petition is allowed accordingly. There shall be no order as to costs.

19.07.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

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2.The Commissioner,
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M.S.RAMESH, J.

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