



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.22954 to 22956 of 2021

and

W.M.P. (MD) Nos. 19443 to 19446, 19449 & 19451 of 2021
and 2875 to 2877 of 2022

K. Saravanan, ... Petitioner in W.P(MD).No.22954 of 2021
P.Natanasigamani ... Petitioner in W.P(MD).No.22955 of 2021
G.Iganacy ... Petitioner in W.P(MD).No.22956 of 2021

Vs.

1. The Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai
2. The District Adi Welfare Officer,
Tenkasi District,
Tenkasi,
3. T. Kamalapushpam,
Graduate Warden,
Government Adi Dravidar Welfare Girls Hostel,
Kulavanigarpuram,
Tirunelveli.

...R1 to R3 in all cases

4. V. Thiyagarajan,
The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

...R4 in W.P. (MD) Nos.22954 & 22956 of 2021

COMMON PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for records pertaining to the impugned order of charge Memo in Na.Ka.No.H3/9557/2020, dated 06.12.2021 on the file of the Respondent No.2 and quash the same as illegal.



For Petitioner

: Mr.S. Louis,

For Respondents

: Mr.AK.Manikkam,
Special Government Pleader
for RR1 and 2
Mr.P.Guansekaran for R3
No-appearance for R4

C O M M O N O R D E R

The charge memo dated 06.12.2021 issued under Rule 17B of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is under challenge in the present Writ Petitions.

2. The petitioners were appointed as Secondary Grade Warden in Adi-Dravidar Welfare Department.

3. The learned counsel appearing for the writ petitioners made a submission that the charge memo was issued in the year 2021 based on the complaint given by the third respondent about sexual harassment caused to her. The learned counsel appearing for the writ petitioners relied on the report of the Tahsildar dated 18.09.2012 holding that there is no evidence to establish the allegation and the Tahsildar recommended for transfer of the employees. Thereafter, the District Adi-Dravidar Welfare Officer issued the proceedings dated 24.01.2013 to the Commissioner stating that the allegations are not established, and transferred the employee namely Mr.G.Ignancy, who is the petitioner in W.P(MD).No.22956 of 2021.

4. This Court cannot conduct an enquiry into the allegations raised between the parties.

5. The learned Special Government Pleader made a submission based on the counter that the Tahsildar report itself is doubtful as it was not communicated to all the concerned parties. Further, on what basis the Tahsildar conducted an enquiry, without examining the witnesses and complainant and other details, are also not provided. Therefore, the report of the Tahsildar cannot be trusted upon nor be taken into consideration for the purpose of proceeding with the charges framed against the petitioner.

6. The learned counsel appearing for the third respondent made a submission that she has made a specific complaint and even after the letter of the District Adi-Dravidar Welfare Officer in the year 2013, other complaints are also filed. The report of the Tahsildar was not communicated to any of the Competent Authorities and therefore, the same cannot form any basis for quashing the charge memo.



7. Disputed facts cannot be adjudicated in a writ proceedings. All such disputes are to be adjudicated with reference to the original documents and evidences, if necessary, through oral evidence. High Court cannot conduct a roving enquiry in respect of allegations of bogus documents or otherwise and the nature of allegations raised in the complaint. However, the fact remains that there are allegations of sexual harassment against the employees.

8. Now, it is brought to the notice of this Court that an Internal Complaints Committee has been constituted under Section 4 of the Sexual Harassment Act. When a Statutory Committee under Section 4 of the Act has been constituted, such Committee must conduct an enquiry as the Tahsildar is not competent to conduct any such enquiry under the provisions of the Sexual Harassment Act. Thus, the Authorities have rightly constituted the Internal Complaints Committee under Section 4 of the Sexual Harassment Act and the said Committee has to conduct a detailed enquiry with reference to the allegations of sexual harassment caused to the woman in the work place.

9. In view of complex facts and circumstances and considering the nature of allegations raised against the employees, this Court is of the considered opinion that an enquiry is warranted and the Statutory Committee under the Sexual Harassment Act has already been constituted. Thus, the Committee must be allowed to conduct an enquiry in the manner contemplated under the Law and by affording opportunity to the parties.

10. The learned Special Government Pleader made a submission that the petitioners are not co-operating for the enquiry before the Committee. However, the learned counsel appearing for the petitioner states that they are willing to co-operate for the enquiry for the purpose of establishing their innocence and to defend the allegations.

11. When such an undertaking is placed before this Court, this Court is of the considered opinion that the parties must be allowed to participate in the enquiry to be conducted by the Competent Authority under the Act, for the purpose of deciding the issues, which are all disputed.

12. The question arises as to whether parallel proceedings need to be conducted in respect of the departmental disciplinary proceedings initiated under the Rule 17(B) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. In view of the fact that the allegations are pertaining to the sexual harassment in work place and a Statutory Committee under Section 4 of the Sexual Harassment Act has been constituted, the Committee must conduct an enquiry at the first instance and based on the Committee's report, if



necessary, further action may be taken under the Provisions of the Sexual Harassment Act and Tamil Nadu Civil Services (Discipline and Appeal) Rules. Therefore, till such time the report is submitted by the Statutory Committee constituted under the Act, the 17(B) charges need not be continued and after getting a report from the Statutory Committee constituted under the Act, the Disciplinary Authority may proceed further in accordance with the Rules in-force.

13. This being the factum established, this Court is inclined to pass the following orders:

(i) the relief sought for in the present writ petition stands rejected.

(ii) the Internal Complaints Committee constituted under Section 4 of the Sexual Harassment Act, 2013 shall proceed with the enquiry by following the procedures and by affording opportunity to all the parties concerned, and complete the enquiry within a period of four months from the date of receipt of a copy of this order.

(iii) it is needless to state that the date and time of hearing must be intimated to all concerned.

(iv) on receipt of report from the Internal Complaints Committee, all appropriate actions are directed to be initiated in accordance with the provisions of the Sexual Harassment Act and Discipline and Appeal Rules as applicable to the employees.

(v) the petitioners are directed to co-operate for the enquiry both before the Internal Complaints Committee and the Disciplinary Authority of the Department. In the event of non-co-operation on the part of the employees, the same shall be recorded by the Competent Authorities in the proceedings itself. In such an event, all those employees are not entitled to seek any relief merely on the ground of delay in completion of the enquiry or disposal of the disciplinary proceedings.

14. With these observations, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

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Sub Assistant Registrar(CS)

ssb



To

1. The Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai

2. The District Adi Welfare Officer,
Tenkasi District,
Tenkasi,

3. Graduate Warden,
Government Adi Dravidar Welfare Girls Hostel,
Kulavanigarpuram,
Tirunelveli.

4. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

+3 CC to M/s.S.LOUIS, Advocate (SR-10468[F] dated 07/03/2022)

+1 CC to M/s.SPL GP (SR-10326[F] dated 07/03/2022)

**W.P. (MD) No.22954 to 22956 of 2021
and**

**W.M.P. (MD) Nos. 19443,19444,19445,19446,19449,19451 of 2021
and 2875 to 2877 of 2022
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MGJ(23.03.2022) 5P 9C