



W.P.No.14395 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.6.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL**

**W.P..No.14395 of 2023
and W.M.P.No.13910 of 2023**

S.Selvanagarathinam, I.P.S., ... Petitioner

Vs.

- 1 The Disciplinary Authority
Rep by the Additional Chief Secretary to
Government, Home (SC) Department,
Secretariat, Chennai- 600 009.
- 2 The Director General of Police (Law and Order),
Post Box No.601 Dr.Radhakrishnan Salai,
Mylapore Chennai- 600 004.
- 3 The Additional Director General of Police (CB- CID),
No.24, Pantheon Road, Egmore- 600 008.
- 4 The Additional Deputy Superintendent of Police,
Special Investigation Division, Crime Branch CID,
Egmore Chennai- 600 008.
- 5 Maheshwari
Special Investigation Division, Crime Branch CID,
Egmore Chennai- 600 008. ...

Respondents



W.P.No.14395 of 2023

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the impugned order passed by the Hon'ble Central Administrative Tribunal Chennai Bench dated 11.04.2023 in OA No.225 of 2023 and quash the same and consequently, grant an interim stay of the memorandum of charge Memo vide letter No. HSC4/2123-3/2022 dated 31.12.2022 on the file of the 1st Respondent pending disposal of O.A. No.225 of 2023.

For Petitioner : Mr.V.Prakash, Sr.Counsel for
Mrs.K.Jayasudha
For Respondents 1 to 4 : Mrs.R.L.Karthika, G.A.
Mr.M.Babu Barveez, G.A.
For Respondent No. 5 : Ms.Chandra Priya for
M/s.P.Wilson Associates

ORDER

(Order of the Court was delivered by **D.KRISHNAKUMAR, J.**)

According to the petitioner, the petitioner is now serving as Deputy Director (Training), Tamil Nadu Training Academy. While so, one Krithika has sent a complaint with false allegations through email to the second respondent herein in September 2022 and the same came to be forwarded to the third respondent. The third respondent directed a preliminary enquiry to verify the allegations by appointing the fourth respondent as the enquiry officer. The petitioner also participated in the enquiry proceedings. The fourth respondent conducted enquiry between November - December 2022 with malafide intention and had given an adverse finding/report dated 26.12.2022 against the petitioner. Taking cognizance of the enquiry report, disciplinary proceedings was initiated against the



W.P.No.14395 of 2023

petitioner and a charge memo dated 31.12.2022 came to be issued in Letter No.HSC4/2123-3/2022. Challenging the charge memo, the petitioner has preferred O.A.No.225 of 2023 before the Central Administrative Tribunal praying to stay the disciplinary proceedings. However, the tribunal rejected interim stay of the impugned order and granted three weeks time to the respondents for filing reply. Aggrieved by the same, the petitioner has filed the instant writ petition before this Court.

2. Assailing the impugned order passed by the first respondent, the petitioner raised a ground that the preliminary enquiry conducted by the fourth respondent is vitiated by bias. The petitioner relied upon the judgment of the Hon'ble Supreme Court of India in **Oryx Fisheries India Private Ltd. vs. Union of India** reported in [(2010) 13 SCC 427] to contend that entire proceedings gets vitiated by unfairness and bias. It is further stated in the affidavit that the provisions of Sexual Harassment Act will not be applicable to the present case as the alleged misconduct does not fall within the definition of Sexual Harassment Act. The complaint ought to have been forwarded by the second respondent to the Internal Complaints Committee constituted under Sec.4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.



W.P.No.14395 of 2023

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3. The learned Government Advocate appearing for the official respondents would submit that O.A.No.225 of 2023 before the Central Administrative Tribunal has been adjourned for filing reply statement by the respondents and the respondents are also ready to file reply statement before the Tribunal. 5th Respondent has already filed counter affidavit before the tribunal. The learned Government Advocate appearing for the official respondents requires time to file reply statement before the tribunal.

4. Considering the rival submissions of the parties and perused the materials available on record.

5. The contentions raised by the petitioner as well as the objections made by the respondents will be decided by the tribunal in the aforesaid O.A. challenging the impugned charge memo. Therefore, we are of the view that in the interest of justice, it would be appropriate to direct the tribunal to dispose of the O.A.No.225 of 2023 within a prescribed time.

6. In the facts and circumstances of the case and in the interest of justice, we direct the tribunal to take up the O.A.No.225 of 2023 and dispose of the same within a period of four weeks from the date of receipt of copy of the order. The parties are directed to agitate all the contentions



W.P.No.14395 of 2023

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raised in the writ petition before the tribunal. It is made clear that the tribunal shall dispose of the said O.A. without being influenced by the orders passed by this Court and the tribunal.

7. With the above directions, writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

(D.K.K.J.) (P.D.B.J.)
27.6.2023

Speaking/Non Speaking order

Index: Yes

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To

- 1 The Disciplinary Authority/Additional Chief Secretary to Government, Home (SC) Department, Secretariat, Chennai- 600 009.
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W.P.No.14395 of 2023

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