



W.P.(MD).No.17305 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17305 of 2023

and

W.P(MD)No.14485 of 2023

Y.Albert Raj

... Petitioner

Vs.

The District Officer,
Fire Service and Rescue Department,
Tirunelveli District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Pa.A.No.65/2023 and Pa.A.No.66/2023 in Na.Ka.No.3605/E/2023, dated 26.06.2023 on the file of the respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.P.Thambi Durai
Government Advocate



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ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order in Pa.A.No.65/2023 and Pa.A.No.66/2023 in Na.Ka.No.3605/E/2023, dated 26.06.2023 on the file of the respondent.

2.Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner and Mr.P.Thambi Durai, learned Government Advocate appearing for the respondent and perused the materials available on record.

3.The petitioner joined in the respondent Department on 02.02.2011 as a Fireman. Thereafter, on 01.04.2020, he was promoted as Driver in the respondent Department and presently till the date of suspension, he was working at Palayamkottai, Tirunelveli District. On 17.02.2023, the petitioner was allotted duty in Ennore Fire Station, Chennai for a period of 10 days. When he returned to the respondent Station, he found that his foldable bed was stolen, which was prescribed by the Doctors for recovery from his back pain during



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his shift at nighttimes. When the petitioner reported the same to the respondent on 02.03.2023, rather than taking action for finding out the missing bed, the respondent issued a memo dated 13.03.2023 seeking to furnish the medical certificate of the petitioner and to explain his impediments in discharging his duty as a driver. However, the petitioner with a heavy heart submitted his explanation to the respondent on 24.03.2023 along with medical certificates. Without considering the petitioner's explanation, the respondent proceeded as against the petitioner and initiated an enquiry under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules by alleging that the petitioner has threatened his co-workers for the theft of foldable bed and thereby acting detrimental to the interests of the Department. After enquiry, the petitioner was imposed with a punishment of postponement of increment for a period of two years without cumulative effect vide proceedings dated 14.06.2023. As against the same, the petitioner preferred an appeal before the Additional Deputy Director Fire Service and Rescue Department, Southern Region, Madurai and the same is pending. To the shock and surprise of the petitioner, once again, the petitioner was subjected to the departmental proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and he was also placed under



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suspension vide impugned order, 26.06.2023 and consequently, he was issued with charge memo, dated 26.06.2023 comprising four items of charges.

4.The first charge is that the petitioner is indulging in the activity of recording the video and audio of co-workers in workplace, the second charge is with respect to an allegation that he has indulged in threatening his co-workers from the peaceful discharge of their official duty on the basis of the recorded video and audio and the second charge is initiated on the basis of the petition received from the various co-workers, the third charge is with respect to the fact that the petitioner sought certain information under the Right to Information Act on 14.03.2023 and the fourth charge is with respect to the allegation that the petitioner has recorded the video and audio conversation of Murugaraj, Suresh Kumar, Selvam and Albert Raj.

5.A perusal of the materials available on record would reveal that charge Nos.1 and 4 are interconnected, for which already 17(a) charge has been issued as against the petitioner and an enquiry was elaborately conducted and minor punishment was also implemented. As against which, the petitioner has preferred an appeal



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before the Additional Deputy Director Fire Service and Rescue Department, Southern Region, Madurai and the same is pending. As far as the second charge is concerned, it is with respect to the fresh petitions received by the Department from 24 persons with respect to the allegation of recording the audio and video of the aforesaid persons and the third charge is with respect to the RTI enquiry made by the petitioner himself to the respondent Department. Since the enquiry pertaining to charge Nos.1 and 4 has already been completed and charge Nos.2 and 3 is not of very serious in nature, this Court is inclined to quash the impugned suspension order and charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

6. Accordingly, the impugned order in Pa.A.No.65/2023 and Pa.A.No.66/2023 in Na.Ka.No.3605/E/2023, dated 26.06.2023, on the file of the respondent, are hereby quashed and the respondent is consequently directed to proceed with the charge under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and issue fresh charge-memo with respect to charge Nos.1 to 4 and proceed under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and conclude the enquiry within a period of one month



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from the date of receipt of a copy of this order. The petitioner is directed to co-operate with the enquiry.

7. With the above observation, this Writ Petition is allowed.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

01.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The District Officer,
Fire Service and Rescue Department,
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L.VICTORIA GOWRI, J.

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