



W.P.No.23746 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.23746 of 2018 and
W.M.P.No.27701 of 2018

M.Sankar

... Petitioner

Vs.

1.Chennai Metropolitan Water Supply and
Sewerage Board,
Rep. by its Managing Director,
No.1, Pumping Station Road,
Chintaripet,
Chennai 600 002.

2.Executive Director / Vigilance Officer / G.M.i/c.
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintaripet,
Chennai 600 002.

3.The Enquiry Officer / Superintending Engineer (South West),
Chennai Metropolitan Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chintaripet,
Chennai 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,



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to issue a Writ of Declaration, to declare the action of the 2nd respondent in initiating and proceeding with the disciplinary proceedings related to charge memo dated 16.08.2017 bearing Memo No.CMWSSB/P&A/VC2/21302/2017 when criminal proceedings has been launched in C.C.No.4 of 2018 on identical charges are pending trial before the competent Criminal Court XI Assistant Judge (FAC Special Judge), Special Court under Prevention of Corruption Act, City Civil Court, Chennai and the action of the third respondent in submitting the Enquiry Report dated 27.06.2018 without examining any witness on the side of the 2nd respondent Board and without semblance of legal evidence and without affording any opportunity to the petitioner as illegal, arbitrary, in violation of principles of natural justice and consequently, direct the respondents to conduct the domestic enquiry in respect of the charge memo after conclusion of the trial in the Criminal proceedings initiated in C.C.No.4 of 2018 pending on the file of XI Assistant Judge (FAC Special Judge), Special Court under Prevention of Corruption Act, City Civil Court, Chennai after giving due opportunity to the petitioner to defend the charges.

For Petitioner : Mr.R.Kamatchi Sundaresan
For Respondents : Mr.N.Paulsunder Singh



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ORDER

This Writ Petition has been filed to declare the action of the 2nd respondent in initiating and proceeding with the disciplinary proceedings related to charge memo dated 16.08.2017 bearing Memo No.CMWSSB/P&A/VC2/21302/2017 when criminal proceedings has been launched in C.C.No.4 of 2018 on identical charges are pending trial before the competent Criminal Court XI Assistant Judge (FAC Special Judge), Special Court under Prevention of Corruption Act, City Civil Court, Chennai and the action of the third respondent in submitting the Enquiry Report dated 27.06.2018 without examining any witness on the side of the 2nd respondent Board and without semblance of legal evidence and without affording any opportunity to the petitioner as illegal, arbitrary, in violation of principles of natural justice and consequently, direct the respondents to conduct the domestic enquiry in respect of the charge memo after conclusion of the trial in the Criminal proceedings initiated in C.C.No.4 of 2018 pending on the file of XI Assistant Judge (FAC Special Judge), Special Court under Prevention of Corruption Act, City Civil Court, Chennai after giving due opportunity to



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the petitioner to defend the charges.

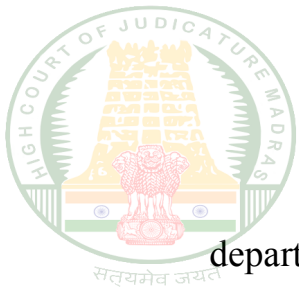
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2. Heard Mr.R.Kamatchi Sundaresan, learned counsel for the petitioner, Mr.N.Paulsunder Singh, learned Standing Counsel for the respondents and perused the materials available on record.

3. The petitioner was working as a Depot Manager in the first respondent's Board. On the allegation of demanding illegal gratification to execute his official functions, he has been issued with the charge memo on 16.08.2017. After receiving the petitioner's explanation and finding it not satisfactory, a disciplinary action has been initiated by appointing an Enquiry Officer. The Enquiry Officer completed the enquiry and filed a report on 27.04.2018.

4. The learned counsel for the petitioner submitted that the enquiry has been conducted in the absence of the petitioner and without giving him any fair opportunity to participate in the enquiry proceedings and unmindful of the fact that the criminal case has also been registered on the similar set of facts and records.

5. The learned Standing Counsel for the respondents submitted that the pending of the criminal case cannot hamper the proceedings of the



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departmental enquiry because the allegations are connected to the performance of the official duties. Only when the allegations are independent in nature, the logic that the enquiry should be kept pending till the criminal proceedings are completed will be applicable.

6. On perusal of the records, it is seen that the petitioner has been issued with the charge memo on 16.08.2017, for which he has also given explanation on 08.09.2017. Thereafter, the petitioner was communicated with the intimation about the appointing of the Enquiry Officer. After receiving the same, the petitioner gave a representation on 13.04.2018 stating that the charge memo has got reference about the investigation report dated 31.03.2017 and other documents, but, they have not been furnished. He also requested a copy to be furnished to him along with the details of the Presenting Officer. In response to the above representation, on 17.04.2018, a letter has been sent by stating that the petitioner cannot engage a lawyer during the enquiry and he is at liberty to peruse the documents on the oral enquiry to be fixed on 27.04.2018. The petitioner appeared and he has given his statement also. Thereafter, the report was filed on 27.06.2018 by holding that the charges against the petitioners



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were proved. The petitioner did not file any proceedings to stop the enquiry. He had subjected himself to the enquiry proceedings.

7. As rightly pointed out by the learned Standing Counsel for the respondents that the allegations in the charge memo given to the petitioner during the disciplinary proceedings are about the occurrence happened during the execution of the official duties and only for that, the criminal case is parallelly initiated. The petitioner did not file any petition to stop the enquiry proceedings by stating that same set of facts is going to be relied on in both the disciplinary proceedings and criminal proceedings. Even after the enquiry was over, the enquiry report was filed. The petitioner did not choose to prefer an appeal to the Appellate Authority.

8. The petitioner was given with the charge memo and thereafter he was communicated about the appointment of the Enquiry Officer. The Enquiry Officer in turn informed the petitioner about the date of enquiry. After receiving all the communication and also placed request to engage a lawyer and got it rejected, the petitioner cannot state that the respondents has violated the principles of natural justice while conducting the enquiry.



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Even though the witnesses and certain documents filed before the disciplinary authority may also required to be filed before the Criminal Court, that will not prevent the respondents to continue the departmental action, especially when the police case does not involve any other facts extraneous to the allegations made in the charge memo. The petitioner was found guilty and the second charge is about to be issued. In such circumstances only the petitioner has filed this Writ Petition as though there is some violation of principles of natural justice.

9. As the petitioner has subjected himself to the disciplinary enquiry and the pendency of the criminal case cannot act as a bar for the departmental enquiry, the petitioner can invoke the remedy by way of filing an appeal before the Appellate Court instead of challenging the enquiry report before this Court by invoking Article 226 of the Constitution of India. As this Court does not find any irregularity or illegality in the enquiry report and the remedy open to the petitioner is only by way of filing an appeal, as of now, the grounds now taken by the petitioner are open in order to enable him to raise the same before the Appellate Authority.



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WEB COPY 10. With these observations, this Writ Petition is dismissed.

However, the disciplinary authority shall grant short two weeks time to the petitioner to make his submission, if any on the enquiry report before proceedings to pass any order of punishment, if any. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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R.N.MANJULA, J.

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