

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 19.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**AND****THE HONOURABLE MS.JUSTICE V.M.VELUMANI****W.P(MD)No.10699 of 2016**

R.Amaravathi

... Petitioner

Vs.

The Judicial Magistrate,
Manapparai,
Thiruchirappalli District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent, i.e. the Judicial Magistrate, Manapparai, relating to his charge memo dated 02.03.2015 initiating second disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, for the same cause of action that took place on 12.03.2012 and quash the same.

For Petitioner

: Mr.S.Visvalingam

For Respondent

: Mr.N.Mohideen Basha

ORDER**(Order of the Court was made by M.SATHYANARAYANAN,J.)**

The petitioner, at present, is serving as Steno-Typist in the Court of Judicial Magistrate, Musiri, Tiruchirappalli District and while she was serving in that capacity in the Court of Judicial Magistrate, Manapparai, was visited with a disciplinary action under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, stating that with regard to the casual leave to be availed, she has submitted the application on 09.03.2012 and despite the fact that it was rejected, she did not attend the duty on 12.03.2012 and thereby, causing hindrance to the performance of judicial duties as well as litigant public and also to the police.

2. The petitioner, in response to the same, submitted an explanation denying all the allegations. However, the learned Judicial Magistrate, Manapparai, vide proceedings dated 19.12.2014, thought fit to impose the punishment of censure.



3. The grievance now expressed by the petitioner is that though she was punished under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in respect of the charge memo dated 28.03.2012, on the very same set of allegations, a fresh impugned charge memo came to be issued on 02.03.2015 under Rule 17(b) of the said Rules.

4. Mr.S.Visvalingam, learned Counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that the comparison of the charge memo issued under Rule 17(a) of the Rules and the impugned charge memo issued under Rule 17(b) of the said Rules, pertains to the same set of facts and admittedly, the petitioner was imposed with a punishment of censure and therefore, the disciplinary authority has no power to review the order in the form of fresh charge memo issued under Rule 17(b) of the said Rules and prays for interference.

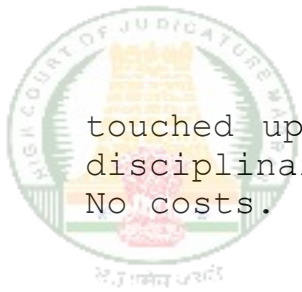
5. Per contra, Mr.N.Mohideen Basha, learned Counsel for the respondent has drawn the attention of this Court to the counter affidavit as well as the typed set of documents and would submit that the petitioner is not at all a dedicated staff with devotion to duty and her attitude towards superiors is not an admirable one and the same has been reflected in the Record Sheet annexed to the Service Register and apart from the impugned charge memo, she is also facing other disciplinary proceedings and her performance is incorrigible and therefore, the respondent thought fit to issue the impugned charge memo and prays for the dismissal of this writ petition.

6. This Court has considered the rival submissions and perused the materials available on record.

7. A perusal of the charge memo issued under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, dated 28.03.2012, which resulted in the punishment of censure on 19.12.2014 as well as the impugned charge memo dated 02.03.2015 issued under Rule 17(b) of the said Rules, would disclose that it is almost the verbatim reproduction of the earlier charges.

8. Admittedly, the petitioner was proceeded under Rule 17(a) of the said Rules and imposed with the punishment of censure vide order dated 19.12.2014 and for the very same reason, she cannot be visited with another disciplinary action under Rule 17(b) of the said Rules. Hence, on that sole ground, the impugned charge memo warrants interference.

9. In the result, this writ petition is allowed and the impugned charge memo dated 02.03.2015 is quashed. It is made clear that the findings/observations herein are made only for the purpose of disposal of this writ petition and this Court has not



touched upon the merits/demerits of other charge memos and other disciplinary proceedings initiated/pending against the petitioner.
No costs.

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/True copy/

Sd/-

Assistant Registrar (AE)

Sub Assistant Registrar

To
The Judicial Magistrate,
Manapparai,
Thiruchirappalli District.

+1 CC to M/s.S.VISVALINGAM, Advocate, SR No.53543

W.P (MD) No.10699 of 2016
19.09.2016

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