



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.06.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.11475 of 2016

and

WMP (MD) No.8781 of 2016

T.Sathyamoorthy

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Highways and Minor Ports Department,
St. George Fort, Chennai.

2.The Director General, Highway Department,
Chennai - 25.

3.The Chief Engineer,
(Construction and Maintenance),
Guindy, Chennai - 25.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to quash the charge memo issued by the second respondent vide charge memo number 935/Kamukkam(confidertied) 2(i)/2016-1, dated 03.06.2016, consequently direct the respondent to drop all the further proceedings pursuant to the impugned charge memo and may relieve this petitioner from all the allegations against him.

For Petitioner

...Mr.K.P.Narayanakumar

For Respondents

....Mr.T.R.Janarthanam,
Additional Government Pleader

O R D E R

The petitioner Mr.T.Sathyamoorthy, who is serving as Divisional Engineer Highways at Trichy, is going to reach the age of superannuation on 30.06.2016. However, he has been issued with charge memo under Section 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, calling upon him to face the departmental proceedings for dereliction of duty. More



particularly on the premise that while serving as Divisional Engineer, he has not taken care of the work executed under his control, as a result, huge revenue loss of Rs.6,36,24,608/- had occurred to the Department. Challenging the said charge memo, the petitioner has come to this Court.

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2. The learned counsel for the petitioner assailing the issuance of charge memo, would submit that there are various guidelines issued by the Tamil Nadu Government stating that no public servant at the tail end of his service should be put to face the disciplinary proceedings either by placing him under Suspension or by issuing charge memo. While so, in the present case, when the petitioner is going to attain the age of superannuation on 30.06.2016, ironically, the charge memo was issued on 03.06.2016 and the same was served on 15.06.2016 with a view to deny him the pensionary benefits by detaining him in service and thus the respondents had caused great hardship to the petitioner, as a result, the petitioner may not be able to peacefully retire from service. Adding further, he would further submit that the Disciplinary Authority before issuing charge memo under Section 17(b), has failed to look into the service records of the petitioner, which would clearly indicate that at no point of time in his service had committed dereliction of duty. Further, the petitioner has initiated recovery proceedings against the concerned persons for having caused loss to the Department and therefore, the petitioner cannot be found fault with, hence the charge memo issued against the petitioner is liable to be quashed.

3. Heard the submissions made on either side and perused the materials available on records.

4. A bare perusal of the recovery proceedings initiated by the petitioner, dated 21.04.2016, shows that the petitioner has initiated action only for a meagre amount. However, the charge levelled against the petitioner shows that due to dereliction of duty, he had caused loss of Rs.6,36,24,608/-.

5. In view of the above, although this Court is of the view that the petitioner has been issued with last minute charge memo under Section 17(b) of the Tamil Nadu Civil Service(Discipline and Appeal) Rules, looking into the gravity of the charge, this Court is not inclined to go into the merits of the arguments advanced by the learned counsel for the petitioner. This Court is of the view that these are all the matters to be gone into by the Disciplinary Authority.

6. In the result, this Writ Petition fails and the same is dismissed. It is for the Disciplinary Authority to expedite the



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disciplinary proceedings keeping in mind that the petitioner had reached the age of superannuation. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

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To:

- 1.The Additional Chief Secretary to Government,
Highways and Minor Ports Department,
St. George Fort, Chennai.
- 2.The Director General, Highway Department,
Chennai - 25.
- 3.The Chief Engineer, (Construction and Maintenance),
Guindy, Chennai - 25.

+1CC to Mr.K.P.Narayana Kumar, Advocate Sr.No.34024

+1CC to Spl.Government Pleader Sr.No.33725

GJM/ARK/PV/21.7.16-2p-6c

W.P. (MD) No.11475 of 2016

28.06.2016