

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.08.2017

Coram

The Hon'ble Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.6154 of 2017
and
W.M.P.No.6622 of 2017

M.G.Sathyamoorthy

...Petitioner

Vs.

1. State of Tamil Nadu
Rep.by its Secretary to Govt.
Home Department
Fort St.George
Chennai - 600 005.
2. The Commissioner
Tribunal for Disciplinary Proceedings
Nagerkoil.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the entire records leading to the issue of Disciplinary Proceedings in R.O.C.No.391/2010/A-1 (T.D.P.27/2010) dated 13.12.2010 and R.C.No.B-1 for 48/2012 (T.D.P.No.22/2012) dated 14.07.2012 on the file of the 2nd respondent herein so far as charge No.2 & 3 pertaining to the petitioner and quash the same.

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

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O R D E R

The charge memo dated 13.12.2010, and the amendment issued thereafter to the charge memo on 14.07.2012 are under challenge in this writ petition.

2. The charges against the writ petitioner as per the charge memo dated 13.12.2010 are as below:-

Charge - 2

While you, G.Sathiyamoorthy (Accused Officer-2) were working as the Motor Vehicle Inspector, Grade-I, Kovilpatti, on 26.3.2009 between 23.45 hrs and 24.00 hrs, while your house was searched at Kovilpatti, unaccounted cash of Rs.7,500/- was found.

Charge - 3

While you, G.Sathiyamoorthy (Accused Officer-2) were working as the Motor Vehicle Inspector, Grade-I, Kovilpatti, you engaged a private person namely Thiru.Karuppasamy as unofficial Sweeper in your office.

Charge - 4

While you G.Sathiyamoorthy (Accused Officer-2) were working as the Motor Vehicle Inspector (Grade-I), Kovilpatti, on 26.3.2009 between 23.15 hrs and 23.30 hrs, while the house of Thiru.Karuppasamy was searched cash of Rs.24,500/- along with the visiting card of "JN Driving School, Vilathikulam" was found inside a Steel Almirah. This amount was kept by Thiru.Karuppasamy in his house on behalf of you.

Thereafter Charge - 4 has been omitted as per proceedings dated 14.07.2012. Both the charge memo as well as the amendment to the charge memo were issued by the Commissioner for Disciplinary Proceedings, Tirunelveli and Nagercoil (Addl. Charge).

3. The learned counsel appearing for the writ petitioner contended that the charge memo was issued after a prolonged period and the impugned memo is liable to be quashed on the ground of laches.

4. On perusal of the charge memo, this Court is of the view that the allegations are relating to the year 2009 and the first charge memo was issued on 13.12.2010 and amendment to the charge memo was issued on 14.07.2012. The allegations are relating to possession of un-accounted money.

5. The learned counsel for the petitioner would further contended that the amount of alleged un-accounted money is only Rs.7,500/- and the petitioner has drawn it from the State Bank of India for his personal expenses and this cannot be construed as a charge for un-accounted money. Considering the quantum of money involved in the charges, it is to be presumed that the allegation itself is false. Thus the learned counsel for the petitioner at the outset contended that the charge is flimsy and liable to be quashed.

6. The learned counsel for the respondents filed a counter affidavit stating that, on 26.03.2009, the Directorate of Vigilance and Anti-Corruption, Thoothukudi Detachment received information that the writ petitioner is leaving to Chennai by Nellai Express bound from Tirunelveli to Chennai in S1 Coach, Berth No.80, with the bribe money, collected from one private individual, namely-Karupphasamy, driving school owners and vehicle owners for the work done in the Regional Transport Office for him. During the search, the Directorate of Vigilance and Anti-corruption officials, did not find any bribe amount and while examining the cell phone of the writ petitioner they came to know that he had contacted one S.Venkataragavan, Motor Vehicle Inspector Grade-U, Unit Office, Tiruchendur, who was also travelling in the same train in Coach No.S5. When the bag of the said S.Venkataragavan, was searched a sum of Rs.52,000/- was found. The said S.Venkataragavan could not give proper answer for the un-accounted money and caused suspicious to the department. Subsequently, the bribe money, which was found with S.Venkataragavan, was belonged to the writ petitioner, which was given to him for safe custody. The officials of Vigilance and Anti-corruption Department got down the petitioner and S.Venkataragavan, at Virudhunagar Railway Station and went on to search the house of one Karupphasamy (private individual) and found Rs.24,600/- inside the steel almirah. Further the petitioner's house was also searched by the officials and Rs.7,500/- was found out. But the writ petitioner along with his co-delinquents could not provide proper evidence for the un-accounted money, totally Rs.84,100/- which was recovered (Rs.7,500/- from the petitioner, Rs.52,000/- from S.Venkataragavan Motor vehicle Inspector Grade-I, Rs.24,600/- from Karupphasamy (private individual))

7. In this connection, First Information Report in Crime No.4/2009 under sections 41,102 Cr.P.C read with Section 13(2) read with 13(1)(d) read with Section 8 of Prevention of Corruption Act, 1988 by the Directorate of Vigilance and Anti-corruption, Thoothukudi Detachment was registered on 27.03.2009. Pursuant to that, the Government directed the Commissioner for Disciplinary Proceedings, Madurai to conduct an enquiry into the allegations, which were held as substantiated against the accused officer under the Tamilnadu Civil Services (Disciplinary Proceedings Tribunal) Rules 1955. Accordingly, the Commissioner for Disciplinary Proceedings, Madurai, framed charges against the writ petitioner as well as the co-delinquents in proceeding R.O.C.No.391/2010/A1(TDP.27/2010) dated 13.12.2010

8. On perusal of the entire allegations and the charges, this Court is of the view that it relates to certain corrupt activities and thus an elaborate enquiry has to be conducted by the Tribunal. The Tribunal had already undertaken the process and the learned counsel for the writ petitioner contended that the enquiry is completed and the report has also been submitted

by the Tribunal for the disciplinary proceedings. In respect of the allegations relating to corruption this Court cannot show any leniency on the employee against him such allegations are raised. It is for him to prove his innocence before the competent authorities namely the enquiry officer in the present case it is Tribunal for Disciplinary Proceedings.

9. All corruption cases are to be dealt with iron hands and Courts should not show any leniency in corruption cases. The principle of zero tolerance should be adopted in all corruption cases by all Courts without any deviation. The menace of corruption is a growing cancer and it is the duty of the Constitutional Courts to curtail the same as much as possible by not showing any leniency. Corruption is the greatest evil stalling the consistent growth of our great nation and corrupt activities of a public servants are affecting the citizens of this country to a great deal. Thus, all such allegations relating to corruption have to be dealt with seriously and the investigations / enquiries ought to be undertaken without any delay and a logical conclusion has to be arrived.

10. In the case on hand, enquiry has already been completed and report is also submitted by the Tribunal for the disciplinary proceedings. Quashing all the charge memos at this stage need not be considered by this Court in this writ petition.

11. However the learned counsel appearing for the petitioner stated that an opportunity to submit further explanation to the petitioner may be provided.

12. No doubt, the delinquents are entitled for such an opportunity and on submission of any explanation by the petitioner, the competent authority have to apply their mind and take a decision in this regard. Thereafter, the procedure contemplated under the disciplinary and appeal rules has to be followed and a final order has to be passed in the disciplinary proceedings. Thus all opportunities under the rules are provided to the delinquents in accordance with the procedures contemplated. In this view of the matter no further consideration is to be shown on the grounds raised in this writ petition. Accordingly, the present writ petition stands dismissed. However no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CS V)

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Sub Asst. Registrar

To

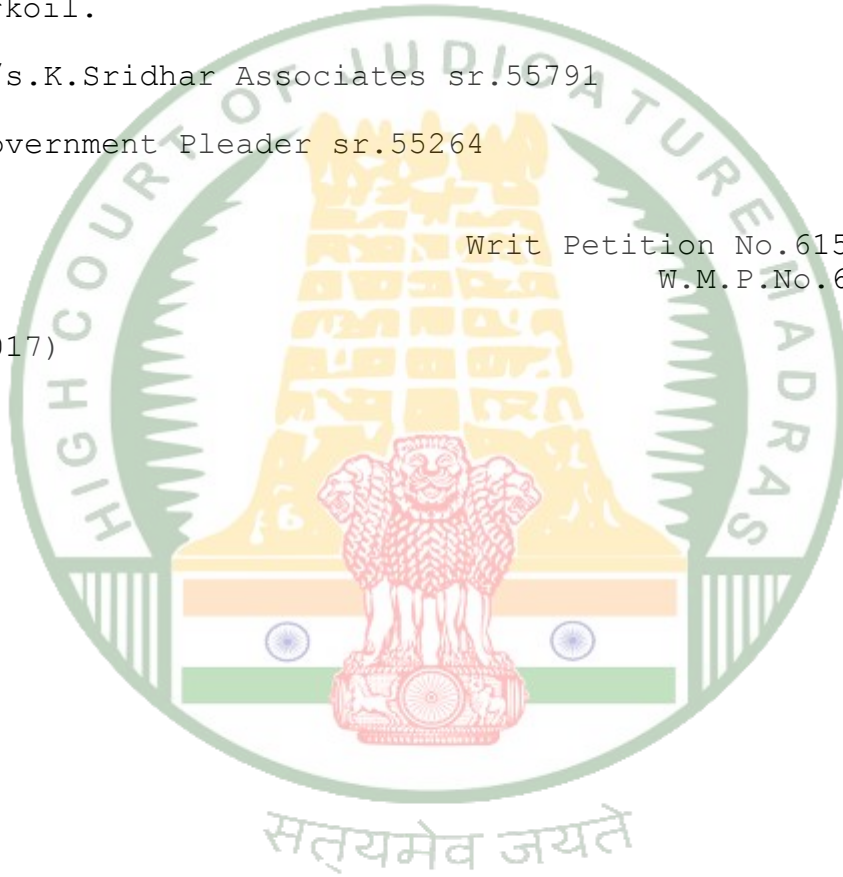
1. The Secretary to Government
State of Tamil Nadu
Home Department
Fort St.George
Chennai - 600 005.
2. The Commissioner
Tribunal for Disciplinary Proceedings
Nagerkoil.

+1cc to M/s.K.Sridhar Associates sr.55791

+1cc to Government Pleader sr.55264

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ss(21/8/2017)



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