

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.09.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10841 of 2017

and WMP.Nos. 11770 and 11771 of 2017

G.Sudalaimuthu

..Petitioner

Vs

1.The District Collector,
Krishnagiri.

2.The District Collector,
Dharmapuri.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to Charge Memo in Roc.No.95617/2003/A2, dated 30.12.2003 issued by the 2nd respondent to him and quash the same and further direct the 1st respondent to permit him to retire from service on superannuation with all the terminal benefits.

For Petitioner : Mr.S.Subramanian

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

ORDER

A Charge memo dated 30.12.2003 issued by the second respondent is under challenge in this writ petition. The writ petitioner was working as Tasildhar and on account of certain irregularities, a charge memo was issued against him in proceedings dated 30.12.2003 and the nature of the charges are as extracted hereunder:

"Charge 1: That he failed to deposit a sum of Rs.1,00,44,993 sanctioned by the Government in their order GO.Ms.No.159 PW (S2) Department, dated 23.4.2003 in the Sub Courts Hosur and Krishnagiri in 48 LAOP cases, and thereby responsible resulting in monitory loss to the Government to the tune of

Rs.1,95,029/- till date by way of paying more interest to the claimants.

Charge 2: That he failed to appeal against the orders of the Sub Court Hosur and Krishnagiri in connection with the 48 LAOP cases stating that the judgment copies were not received. But, the Government Pleader sent Xerox copies of letters sent by the Special Tahsildar in which the himself has admitted that judgment copies were received in 47 cases. Having got Government Orders for releasing the Government money, he has neither deposited the money in the Court nor he has filed appeal. He has not cared to obey the orders of the Government or the instructions issued by the Collector and he delayed the payment causing loss to Government to a tune of Rs.1,95,029/- which amount to dereliction in duty and insubordination to Collector's instructions.

Charge 3: On 7.1.2003 for 11 LAOP cases he released a sum of Rs.11,47,000/- without filing appeal till date.

Charge : 4 In spite of release orders issued for LAOP 7/2001 he has not deposited a sum of Rs.48,224/- in the Court. If the awardees claim the interest till date, a sum of Rs.39,232/- has to be paid which would be monetary loss to the Government.

Charge :5 That by not remitting a sum of Rs.1,00,44,993/- sanctioned by the Government in G.O.Ms.No.159 PW(S2) Department dated 23.04.2003 but writing letters that he wants to file an appeal to these 48 cases, which is contrary to his own decision thereby causing interest loss nor has he obtained stay in the Court as per his letter dated 26.9.2003. Thereby amounting to lack of devotion to duty and insubordination to Government orders and Collector's specific instructions.

Charge : 6 That his acting high handed manner and not giving respect to the Government order and instructions of Collector amounts to total insubordination and dereliction of duty."

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was not allowed to retire from service and his services were retained under F.R.56(1)(c) of the Fundamental Rules. However, the writ petitioner sought for certain important documents in order to prove his innocence

before the enquiry proceedings. The vital documents sought for by the writ petitioner has not been supplied by the respondents and therefore, he was unable to participate in the enquiry and defend his case. Further, the learned counsel submitted that even now, the petitioner is ready and willing to participate only in the event of getting the related documents. In this regard, he has approached the authorities and inspite of his repeated requests, the documents are not furnished enabling the petitioner to defend his case before the disciplinary authority. At the outset, the contention of the writ petitioner is that the documents related to the charge memo are not furnished to him and therefore, he is unable to participate in the enquiry proceedings.

3. The learned Special Government Pleader appearing on behalf of the respondents, by relying on the statements made in the counter affidavit filed by the first respondent, stated that at the instance of the writ petitioner, there is a huge delay in concluding the disciplinary proceedings and the writ petitioner is not co-operating for the domestic enquiry.

4. On a perusal of the charges, there is no doubt that the charges are very serious in nature and therefore, the writ petitioner has to co-operate for the completion of the enquiry proceedings in all respects and it is his duty to prove his innocence before the enquiry proceedings. The writ petition itself was filed mainly on the ground of delay in concluding the disciplinary proceedings and in para 13 of the counter affidavit filed by the first respondent, the events are narrated as hereunder:

".....13. It is submitted that the averments made in Para 12 of the affidavit are not correct and false one. From the very beginning the petitioner is not at all co-operating in the enquiry. The petitioner has not at all offered his explanation for the charges leveled against him. The petitioner is blaming the staff of the 2nd respondent for framing charges against him. So far 8 enquiry officers were appointed for conducting the enquiry for the charges leveled against him. The petitioner has not at all co-operated with the said enquiry officers to proceed further in the matter. All the enquiry officers are reluctant of conduct enquiry in the matter. Lastly the Assistant Commissioner (Excise) Krishnagiri was appointed as enquiry officer and the petitioner attended enquiry on 03.04.2017 and not offered any explanation for the charges leveled against him and the petitioner gone out stating that he will seek redress in Court of law in the High Court. Finally, the 1st respondent the Collector, Krishnagiri has issued summon to the petitioner to appear before the Collector in person on 22.05.2017 at 11.00 AM

Collectors Office Krishnagiri for enquiry. The petitioner after receiving the summon has not attended the enquiry. The petitioner has sent a reply stating that he will seek redress in the High Court. Thus the petitioner is not at all co-operating for enquiry for the past 13 years. Hence, the charges against the petitioner could not be able to be finalized. This is only due to non-cooperation of the petitioner. The charges leveled against the petitioner could not be finalized due to non-cooperation of the petitioner with the enquiry officers and also non-submission of his explanation so far on the charges leveled against him. Since there is a loss to the Government to a tune of Rs.1,95,029/- the charge memo need not be quashed. However this respondent will pass order with the available records as per law. It is liberty to petitioner to prefer appeal in the appropriate forum, if it is found against to him."

4. It is further stated that the allegations against the writ petitioner are certainly grave and causing financial loss to the Government to the tune of Rs.1,95,029/-.

5. Thus, this Court is of the view that the disciplinary proceedings initiated against the writ petitioner shall be allowed to be completed in all respects and the same should reach its logical conclusion.

6. This Court is of the view that from the counter affidavit filed by the first respondent, more specifically in para 13, it is clear that eight enquiry officers were appointed and further in all those occasions, the writ petitioner was evading and repeatedly insisting only to produce the documents. Even in case where there are no documents or the documents have been misplaced, it is for the writ petitioner to defend in the enquiry proceedings and prove his innocence. On the contrary, he cannot prolong or protract the conclusion of the disciplinary proceedings.

7. In this view of the matter, no further adjudication on merits needs to be considered. Accordingly, the writ petition stands dismissed. However, in view of the long pendency of the disciplinary proceedings, the respondents are directed to proceed with the enquiry and complete the same in all respects and pass final orders within a period of four months from the date of receipt of a copy of this order and it is made clear that the writ petitioner shall co-operate in all respects for concluding the enquiry proceedings. In the event of non-cooperation by the writ petitioner, the time limit granted by this Court for the completion of the disciplinary proceedings will

not provide a cause for the writ petitioner. Consequently connected miscellaneous petitions are closed. However, no order as to costs.

sd/
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

ms

To

1.The District Collector,
Krishnagiri.

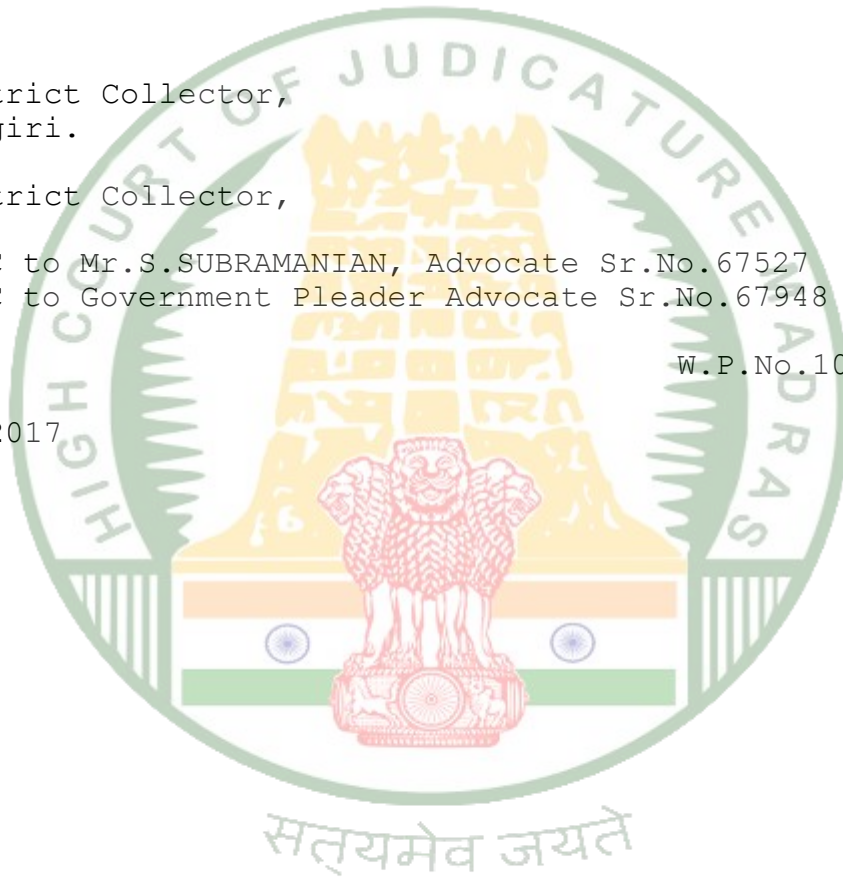
2.The District Collector,

+1 CC to Mr.S.SUBRAMANIAN, Advocate Sr.No.67527

+1 CC to Government Pleader Advocate Sr.No.67948

W.P.No.10841 of 2017

SR (CO)
NR 22/11/2017



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