

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.10.2017
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.15819 of 2011
and
MP.No.2 of 2011

M.Murthi

..Petitioner

Vs

1.The Secretary to Government,
Public (Special A) Department,
Fort St.George,
Chennai -9.

2.The District Collector,
Chennai District,
M.Singaravelu Malligai,
No.63, Rajaji Salai,
Chennai -1.

3.The Secretary to Government,
Home Department,
Fort St.George,
Chennai. -9.

...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 of the 1st respondent in connection with the impugned charge memo issued by the first respondent in letter No.1786/07/6 Public (Special A) Department, dated 2.3.2009 and quash the same and further direct the respondents to settle the retirement benefits within a reasonable time.

For Petitioner
For Respondents

: Mr.M.Muthappan
: Mrs.K.Bhuvaneswari
Government Advocate

O R D E R

The charge memo issued against the writ petitioner on 2.3.2009 is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was holding the post of District Revenue Officer and on account of certain serious allegations, a charge memo was issued against the writ petitioner by proceedings dated 2.3.2009. The charges against

the writ petitioner are extracted here under :

"Charge No.1:

That you, Thiru.M.Murthi, while acting as District Revenue Officer, Chennai, in the capacity as Competent Authority under TNPID Act, 1997, accepted Rs.1,00,000/- on 18.12.2006 near Koyambedu Bus Terminal, Rs.1,00,000/- on 14.2.2007 in your room in No.11/8, Third Land, Habibullah Road, T.Nagar, Chennai -17 and Rs.50,000/- on 21.2.2007 in your office from one Thiru.V.Thirunavukkarasu, Managing Partner, M/s.Thirumuruga Finance, Door No.73, Ranganathan Street, T.Nagar, Chennai -17 on demand to compound offence as per section 5-A of TNPID Act, 1997 on the direction of the Special Court, Chennai -104, under TNPID Act, 1997 in C.C.No.11/2000 which was filed against Thiru.V.Thirunavukkarasu and four others for their default in the repayment of deposits, deposited with M/s.Thirumuruga Finance in the year 1998.

Charge No.2:

By your above said, act you have misused your official position as District Revenue Officer, Chennai District and violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules, 1973."

3. On a perusal of the charges, this Court is of the view that the charges are serious in nature warranting full fledged enquiry. The statement of imputation of misconduct in support of the charges, are also enclosed and Annexure -III provides list of documents in support of the charges and Annexure-IV provides list of witnesses in support of the charges. Thus, there is no infirmity in providing all the charges and the allegations against the writ petitioner are also serious in nature.

4.It is left open to the writ petitioner to submit his explanations/objections on the charges and prove his innocence before the enquiry proceedings. The learned counsel urged this Court in this regard on merits and the factual circumstances of the case and made an attempt to disprove the allegations issued in the impugned charge memo. Such an attempt cannot be encouraged by this Court in this writ petition, in view of the fact that the disciplinary proceeding initiated against a Government servant, shall be allowed to be completed and the same should reach its logical conclusion. This Court cannot adjudicate on the merits of the charges in this writ petition and it is for the writ petitioner to submit his explanations /

objections on the charge memo and defend his case before the enquiry proceedings under the relevant Rules.

5. A charge memo can be challenged on limited grounds and a writ can be entertained only on exceptional circumstances and this Court cannot entertain the writ petition challenging the charge memo in a routine manner. A charge memo can be challenged, if the same was issued by an incompetent authority having no jurisdiction or allegations of mala fides are raised or if the memo was issued in violation of statutory Rules. Even in the case of raising the grounds of allegations of mala fides, the authority against whom such an allegation is raised has to be impleaded as a party respondent in his personal capacity in the writ proceedings. In the absence of any one of the legal grounds, no writ can be entertained against the charge memo.

6. Intermittent intervention in departmental disciplinary proceedings are certainly not preferable. The disciplinary proceedings initiated against a Government employee under the relevant Rules, has to be allowed to be completed and the same should reach its logical conclusion. Intermittent intervention can be entertained only on exceptional circumstances, if there is a violation of statutory Rules in this regard. This Court is of the opinion that factual circumstances and the merits and the demerits of the allegations set out in the charge memo, cannot be adjudicated by this Court at this stage in this writ petition. It is left open to the writ petitioner to present his case before the enquiry officer so appointed for the purpose of conducting an enquiry and to disprove the allegations raised in the charge memo.

7. The competent authorities exercising the powers under the relevant Rules shall be allowed to complete the proceedings in accordance with the Rules. Frequent interferences in such administrative actions will cause greater inconvenience for running the administration in an effective manner. This Court is of the opinion that actions, if initiated in contravention to the Rules, can be dealt with by way of writ petition under Article 226 of Constitution of India. However, filing of the writ petition challenging the charge memo has to be entertained cautiously by this Court and the institutional powers conferred by way of Rules or statutes to the competent authorities and those authorities exercising the powers under the Rules, must alone exercise it in accordance with the Rules and only after completing the proceedings, this Court can entertain the writ petition under Article 226 of constitution of India . At the outset, intermittent intervention ought to be exercised cautiously and the power of judicial review in this regard, is limited and not preferable at all times.

8. In view of the fact that it is for the writ petitioner to participate in the enquiry and defend his case in accordance with the Rules, this Court is not inclined to consider the factual aspects raised by the writ petitioner and the merits therein. Thus, no further adjudication is required on the merits raised in this writ petition.

9. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. However, no order as to costs.

/sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

ms

To

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+1 CC to Mr. M. Muthappan, , Advocate Sr.No. 74151

+1 CC to Govt., Pleader, Sr.No. 74764

W.P.No.15819 of 2011

MD: 10/11/2017