

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P. No.22218 of 2017

and

WMP.Nos.23248,23249 of 2017

S.Thomsson

...Petitioner

Vs

1.The Deputy Commissioner of Police,
Anna Nagar, Greater Chennai,
Chennai - 600 054.

2.The Deputy Commissioner of Police,
Ambattur, Avadi,
Chennai - 600 054.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings P.R.No.24/W2/2016 - P.R.No.42/980/WZ/2015, dated Nil.02.2016 signed on 25.05.2016.

For Petitioner : Mr.C.Prakasam

For RR 1 & 2 : Mr.K.Dhananjayan, Spl.GP

ORDER

The Charge memo was issued to the writ petitioner by the 1st respondent in proceedings dated Nil.02.2016 is under challenge in this writ petition.

1. The learned counsel appearing for the writ petitioner would contend that the writ petitioner was holding the post of Inspector of Police and on account of certain allegation of false entries made in the General dairy kept in the Police Station, the Impugned Charge Memo was issued against the writ petitioner. The learned counsel would further submit that the writ petitioner has not made any false entries and he was not aware of the fact at all. Further it is contended that such entries are made pursuant to the permission granted by the Director General of Police and the writ petitioner has not made

any entries at his instance. Therefore, the very charge memo is intentional and the writ petitioner should be exonerated from the charges.

3. On perusal of the allegation set out in the charge memo, this Court is of the opinion that certain allegation are certainly serious in nature and the writ petitioner has to submit his explanation/objection on the charge memo. Instead of filing the explanation/objection on the charge memo, the writ petitioner has chosen to file this writ petition under Article 226 of the Constitution of India and at this point of time, this Court cannot adjudicate the matter on merits with regard to the nature of allegation set out in this writ petition.

5. Initiation of disciplinary proceedings by the disciplinary authorities in accordance with the Tamil Nadu Civil Services (Discipline and Appeal) Rules, cannot be challenged at this stage of charge memo and this Court can entertain the writ petition, challenging the charge memo, only on exceptional circumstances. The charge memo can be challenged, if the same is issued by an incompetent authority, having no jurisdiction or allegation of malafides are raised or if the charge memo is in violation of the statutory rules. Even in case of raising allegation of malafides authority against whom such an allegation is raised has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these ground, no writ can be issued against the charge memo. Further, the disciplinary proceedings initiated against the public servants is to be allowed to continue to reach its logical conclusion. Intermittent intervention in disciplinary proceedings are certainly not preferable. Thus, this Court is of the firm view that at the stage of charge memo, the High Court cannot go into the merits and demerits of the matter and adjudicate the same in writ filed under Article 226 of the Constitution of India. It is for the competent authority concerned to consider the merits and demerits of the allegation and take a final decision on the disciplinary proceedings.

6. In this view of the matter, the grounds raised in this writ petition cannot be considered on merits. It is left open to the writ petitioner to submit his explanation/objection on the charge memo and to prove his innocence before the enquiry proceedings.

7. Hence, no further consideration or objection is required to be entertained in this writ petition. Accordingly, the writ petition stands dismissed. However, no order as to costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sk
To

1.The Deputy Commissioner of Police,
Anna Nagar, Chennai,
Chennai - 600 054.

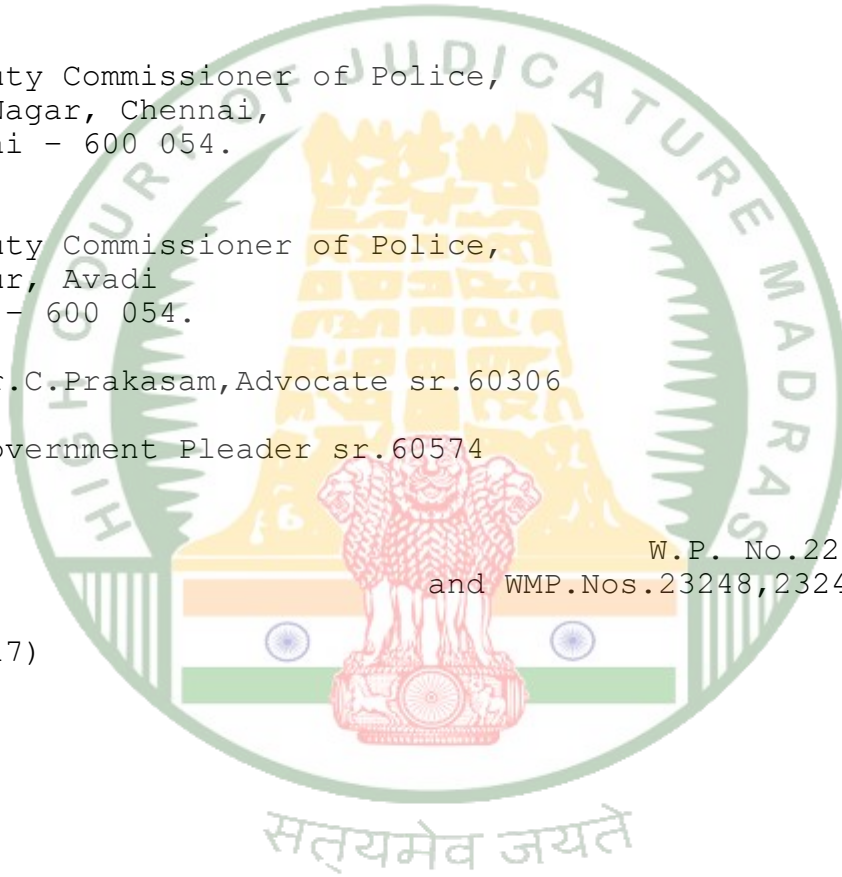
2.The Deputy Commissioner of Police,
Ambattur, Avadi
Chennai - 600 054.

+1cc to Mr.C.Prakasam,Advocate sr.60306

+1cc to Government Pleader sr.60574

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ss(6/9/2017)



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