

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.07.2017

CORAM

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

W.P. No.2309 of 2017
and
W.M.P.2299 of 2017

T.R.Viswanathan

... Petitioner

.Vs.

1. The District Collector,
Villupuram District,

2. The Revenue Divisional Officer,
Villupuram District.

...Respondents

Prayer : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records relating to the charge memo dated 17.08.2016 in Na.Ka. No.A1/ 1694/ 2014 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.S.Vijaya Ganesh

For Respondents : Mr.K.Dhanajeyan
Special Government Pleader

सत्यमेव जयते
O R D E R

The charge memo dated 17.08.2016 is under challenge in this writ petition. The writ petitioner was holding the post of Village Administrative Officer and on account of the allegation regarding receiving of bribe, a criminal case was registered by the Vigilance and Anti Corruption Police, Cuddalore, in the Crime No.4 of 2007.

2. The writ petitioner was placed under suspension and pursuant to the orders of this Court, he was reinstated and contested the criminal case. Though the criminal case registered against the writ petitioner was disposed with an order of acquittal, the Department of Vigilance and Anti Corruption

preferred a criminal appeal before this Court and the same is pending. The Judgment in Special Case No.7 of 2013 was delivered by the learned Special Judge, Vigilance and Anti Corruption department, Villupuram District on 14.08.2015. Challenging the same criminal appeal No.539 of 2016 was filed. Thereafter, the respondents have initiated disciplinary action and issued a charge memo with annexures on 17.08.2016.

3.Learned counsel appearing for the writ petitioner submits that though charge memo was issued on 17.08.2016, the same was served to the petitioner on 10.12.2016, after a lapse of 4 months. Further, he contended that only after filing of the criminal appeal before this Court and after the appearance of the learned counsel in the criminal appeal, the charge memo was served. Therefore the charge memo is liable to be scrapped.

4.Another allegation in the charge memo is serious, which relates to the allegation of receiving bribe. Further, the writ petitioner though acquitted by the Special Judge of Vigilance and Anti Corruption Department, Villupuram, the prosecution has filed the criminal appeal which is pending before this Court.

5.The Hon'ble Supreme Court of India as well as our High Court reiterated and emphasised that a mere pendency of a criminal case / appeal can never be a bar for concluding disciplinary proceedings. Even in the case of an order of acquittal, the disciplinary authority can continue the disciplinary proceedings, conclude the same and take a final decision in relation to the charges framed and impose any one of the penalties contemplated under Rule 8 of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The criminal case investigation and criminal court proceedings stand entirely on a different footing than that of the departmental disciplinary proceedings initiated under the Discipline and Appeal Rules. The criminal court proceedings requires high standard of proof to convict an accused. But in a departmental proceedings, preponderance of probabilities are enough to impose penalty under the Discipline and Appeal Rules. Thus, comparison of criminal court proceedings and departmental disciplinary proceedings are impermissible. Only on an exceptional circumstances such a comparison may be undertaken in order to appreciate the facts and circumstances of a particular case. But there cannot be any uniform principle so as to adopt the same in each case and in this regard it has to be considered on the basis of the facts and circumstances.

6.The writ petition on hand, this court is of the view that the allegations against the writ petitioner set out in the charge memo are certainly very serious and in relation to the

corrupt activities. Thus, no leniency can be shown to consider the nature of the allegations raised in the charge memo against the writ petitioner. Corruption cases are to be dealt with iron hands and no sympathy can be allowed to be elucidated against such kind of allegations.

7. In this view of the matter no further consideration is required in this writ petition and it is for the Disciplinary Authorities to proceed with the disciplinary proceedings and conclude the same in accordance with the rules.

8. With these observations, this writ petition stands dismissed. Consequently, the connected miscellaneous petition is also dismissed. However, no order as to costs.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

smn/kas

To.

1. The District Collector,
Villupuram District,
2. The Revenue Divisional Officer,
Villupuram District.

+1cc to the Government Pleader, S.R.No.51391

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