

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.07.2017

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP.No.17811/2017 and WMP.No.19320/2017

R.Ashok Kumar

.... Petitioner

Versus

1. The Director General of Police,
Chennai-600 004.

2. The Superintendent of Police,
Thiruvavur, Thiruvavur District.

3. The Deputy Superintendent of Police,
Nannilam, Thiruvavur District

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to forbear the respondents herein from in any manner proceeding with the disciplinary proceeding pursuant to the charge Memo issued by the second respondent in Tha.Pa.No.11/2017 Rule 17[b] dated 10.04.2017 till the finalization of the cases in Crime No.1/2012 on the file of the Q Branch, CID Police, Pudukottai, Crime No.2/2012 on the file of the Q Branch, CID Police, Nagapattinam and Crime No.RC MA 12013 A 0032 on the file of the Deputy Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Chennai.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.K.Dhanajeyan,
Spl Government Pleader

ORDER

The order impugned in this writ petition is a Charge Memo, issued by the 2nd respondent dated 10.04.2017 issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules). The writ petitioner is holding the post of Computer Data Entry Operator in the office of the District Police, Thiruvavur District.

2. The learned counsel appearing for the writ petitioner would contend that the writ petitioner is facing multiple criminal cases in Cr. No.1/12 and Cr.No.2/12 and another First

Information Report is also registered. In these circumstances, the District Police Officer, Thiruvarur District, issued a charge memo in proceedings dated 10.04.2017, framing charges against the writ petitioner.

3. The learned counsel for the petitioner states that in the event of facing the Departmental Disciplinary Proceedings, the defence to be taken in the criminal case will be affected. Therefore, it is preferable that the disciplinary proceedings are deferred till the final judgments are delivered in the criminal case.

4. The Courts have laid down the principles that pendency of the criminal case is not a bar for initiating the Departmental Disciplinary Proceedings. That apart, the trial in criminal case requires high standard of proof and only on the basis of proving the allegation beyond doubt, the conviction can be imposed. But, in the Departmental Disciplinary Proceedings, preponderance of probabilities are sufficient to impose punishment on the employees under the Discipline and Appeal Rules. Thus, the criminal cases registered and pending before the criminal Courts are standing on different footing and the same will not prevent the disciplinary authorities to continue the Disciplinary Proceedings under the Tamil Nadu Civil services (Discipline and Appeal) Rules.

5. With all force and on perusal of the impugned charge memo, this Court, is of the firm opinion that the writ petitioner who is involved in three criminal cases cannot be shown any leniency and the initiation of Disciplinary Proceedings by the respondents cannot be found faulted with and therefore, the writ petition filed for a direction to defer the continuation of the Disciplinary Proceeding cannot be considered at this point of time and it is left open to the writ petitioner to submit his explanation/objections and participate in the enquiry and prove his innocence.

6. With these observations, no further consideration is required on the merits of this Writ petition. Accordingly, the writ petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. However, no order as to cost.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

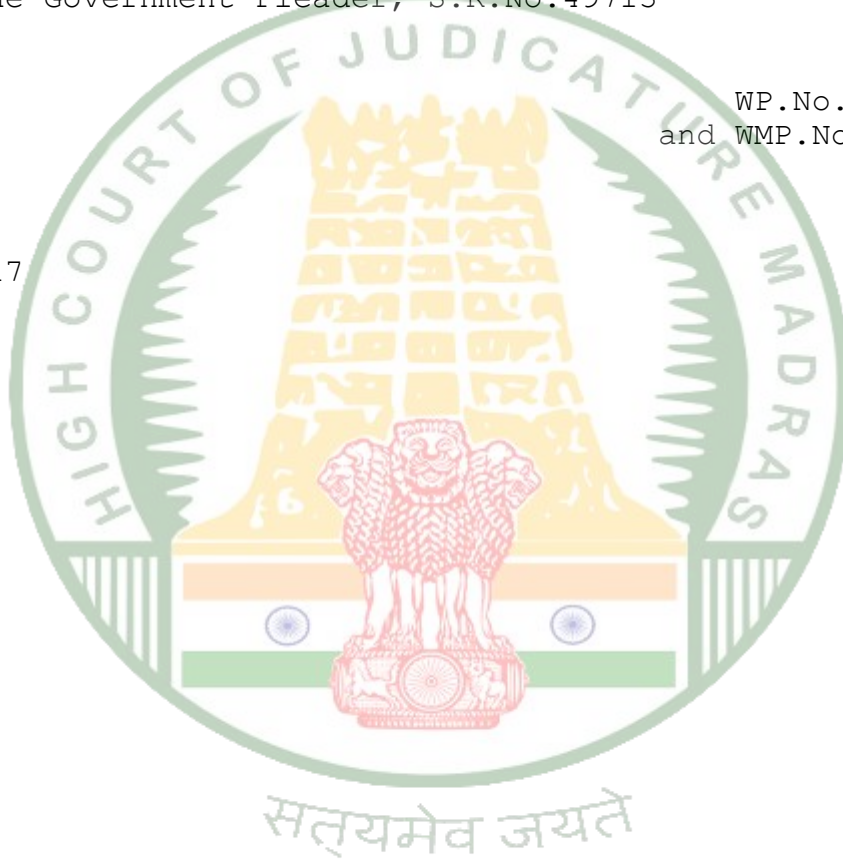
To

1. The Director General of Police,
Chennai-600 004.
2. The Superintendent of Police,
Thiruvavarur, Thiruvavarur District.
3. The Deputy Superintendent of Police,
Nannilam, Thiruvavarur District

+1cc to Mr.P.Mohanraj, Advocate, S.R.No.49484
+1cc to the Government Pleader, S.R.No.49713

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VD(CO)
CS/02/08/17



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