

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.07.2017
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P. No.18048 of 2017
and
W.M.P. No.19603 of 2017

K. Shunkumar

...Petitioner

versus

- 1.The Assistant Director of Handlooms & Textiles,
Karur Circle, 124, Thittal Salai, V.V.G.Nagar,
Vengamedu, Karur-639 006.
- 2.The Inspector of Police,
Marandahalli Police Station,
Krishnagiri District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned Charge Memorandum issued by the 1st respondent in his Na.Ka.680/2005/A dated 28.06.2005 and quash the same and consequently direct the 1st respondent to allow all the service benefits including seniority, promotion etc.,

For Petitioner : Mr. R.Krishnamoorthy

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

O R D E R

The challenge to the Charge memo dated 28th June 2005 is sought for in this writ petition. The Writ petitioner was holding the post of Handloom Inspector under the control of the Assistant Director, Handloom and Textiles. He was placed under suspension vide order dated 28th February 2005 on the ground that a criminal case was registered under Section 302 IPC and it was under investigation. He was kept in Salem Central Prison from 1st March 2005 to 15th March 2005. Such being the nature of offense alleged against a public servant and he was imprisoned for about 15 days in Central prison, Salem, there was no irregularity or illegality in initiating the disciplinary proceedings against the writ petitioner and placing him under suspension.

2. The learned counsel appearing for the writ petitioner contended that the criminal case against the writ petitioner was dropped. No doubt, departmental disciplinary proceedings are unconnected with the criminal proceedings. The Criminal proceedings initiated by the State requires 'High Standard of Proof' and for the departmental proceedings "Preponderance of Probabilities" are sufficient to punish an employee. Therefore, there is no bar to continue the disciplinary proceedings, in spite of, the fact that the criminal court has granted acquittal. In other words, an order of acquittal cannot be a bar for the department to continue the disciplinary proceedings.

3. Therefore, even in the case of dropping of the criminal proceedings or the order of acquittal, the department is free to proceed with the disciplinary proceedings and an order of criminal court cannot have any direct implication to proceed with the disciplinary proceedings under the Tamil Nadu Civil Services (Discipline And Appeal) rules. The department may proceed based on the materials and evidences available before the department diligently under the Rules by providing opportunity to the writ petitioner. In such view of the matter, quashing of the charge memo cannot be a relief which can be granted in this writ petition. Thus, this court is not inclined to consider the grounds raised in the writ petition for quashing of the charge memo itself. However, this court is of the opinion that the charge memo was issued on 28th June 2005 and in view of the pendency of the criminal case, the department was unable to proceed. Now, that the criminal case is dropped against the writ petitioner, the respondents shall continue the disciplinary proceedings in accordance with the rules.

4. Accordingly, the respondents are directed to proceed with the charge memo, conduct enquiry and finalize the disciplinary proceedings, by providing opportunities to the writ petitioner under the rules and thereafter, pass final orders within a period of 6 months from the date of receipt of a copy of this order, provided the writ petitioner fully co-operates for the completion of the enquiry proceedings.

5. Accordingly, the writ petition stands disposed of. However, there is no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The Assistant Director of Handlooms & Textiles,
Karur Circle, 124, Thittal Salai, V.V.G.Nagar,
Vengamedu, Karur-639 006.

2.The Inspector of Police,
Marandahalli Police Station,
Krishnagiri District.

+1 cc to Mr.R.Krishnamoorthy Advocate sr 49635

+1 cc to the Government Pleader sr 50112

W.P. No.18048 of 2017
and
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sks (co)
aa03/08/2017



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