

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

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

W.P.No.33492 of 2015
and
MP.Nos.1 & 2 of 2015
and
WMP.No.30892 of 2016

M.Vijayakumar

... Petitioner

Vs

1. The Inspector General of Prisons cum
Additional Director General of Police,
Prisons Department,
Egmore, Chennai - 8.
2. The Deputy Inspector General of Prisons,
Coimbatore Range,
Coimbatore.
3. The Superintendent,
Central Prison,
Salem.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 3rd respondent in connection with the impugned charge memo issued by him in Proc.No.9538/G1/2015, dated 3.7.2015 and quash the same.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

The charge memo issued by the third respondent in proceedings dated 3.7.2015 is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner states that the writ petitioner is working as an Assistant and on account of certain irregularities that took place in the Prison Department, a charge memo under Rule 17(b) of Tamil

Nadu Civil Services (Discipline and Appeal) Rules, was issued against the writ petitioner by the third respondent in the proceedings dated 3.7.2015.

3. On a perusal of the charge memo, this Court is of the view that certain serious irregularities were committed, while handling the stock in the prison stores. However, the writ petitioner sought for certain documents in respect of the allegations and thereafter, has moved this writ petition under Article 226 of the Constitution of India.

4. This Court is of the view that the writ petition against the charge memo cannot be entertained in a routine manner and this Court shall entertain a writ petition in this regard only under exceptional circumstances, if a charge memo was issued by an incompetent authority, having no jurisdiction or if there is any malafide in the allegations raised. Even, in the case of raising the grounds of malafides, the authority against whom such allegation is set out has to be impleaded as a party to the writ proceedings in his personal capacity. If the charge memo is issued in violation of the statutory rules, then writ petition can be entertained. However, on a perusal of the grounds and the averments in the affidavit filed in support of the writ petition, no such legal ground has been raised and all the averments are relating to the merits of the allegations set out in the charge memo impugned in this writ petition.

5. This Court is of the firm view that the disciplinary proceedings initiated against a Government employee shall be allowed to be completed and the same should reach its logical conclusion. Intermittent intervention in the disciplinary proceedings ought to be exercised cautiously and the power of judicial review cannot be entertained in a routine manner, when the charge memo is challenged by way of a writ petition. This Court cannot adjudicate or consider the merits of the allegations and the counter allegations set out in the explanations. A charge memo is an ensuing point of the disciplinary proceedings and it is for the disciplinary authorities to conduct a domestic enquiry in accordance with the Rules by providing opportunities to the delinquent officials and thereafter, take a decision in the disciplinary proceedings. This being the procedure contemplated under the Rules, this Court cannot consider the merits and demerits of the case at the stage of charge memo. However, it is left open to the writ petitioner to submit his explanation/objections to the competent authority and prove his innocence in the enquiry proceedings and therefore, the grounds raised on merits in relation to the allegations set out in the charge memo, cannot be adjudicated in this writ petition under Article 226 of the Constitution of India. This being the consistent view in respect of the charge memo, this Court is not inclined to consider the grounds raised in this writ petition.

6. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However, no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Prisons cum
Additional Director General of Police,
Prisons Department,
Egmore, Chennai - 8.
2. The Deputy Inspector General of Prisons,
Coimbatore Range,
Coimbatore.
3. The Superintendent,
Central Prison,
Salem.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.67667
+1cc to the Government Pleader, S.R.No.67765

W.P.No.33492 of 2015

PVS (CO)
CA(13/10/2017)

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