

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7727 of 2015
and
W.M.P.Nos.1 & 2 of 2015

R.Annadurai

... Petitioner

Vs.

1.The Assistant Director of Land Records,
Salem District.

2.Mr.M.Sampath,
Assistant Director of Land Records,
Salem District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned charge memo passed by the first respondent in his proceedings Na.Ka.A7/231/2015, dated 17.02.2015 and the same was received by the petitioner on 06.03.2015 and quash the same.

For Petitioner : Mr.C.Prakasam
For R1 : Mr.M.Perumal
Government Advocate
For R2 : No appearance

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सत्यमेव जयते
O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.M.Perumal, learned Government Advocate appearing for the first respondent.

2.The charge memo issued under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules in proceedings dated 17.02.2015 is under challenge in this writ petition.

3.The writ petitioner is working as Surveyor in the Department of Survey and Land Records and on account of certain lapses, the charges were issued for imposing minor penalty under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and

Appeal) Rules. The procedures contemplated under the Rules for initiation of 17 (a) proceedings are summary proceedings and on receipt of the charge memo under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the delinquent employee has to submit his explanations/objections on the charge memo and thereafter considering the materials available on records, the disciplinary authority has to pass orders. The writ petitioner instead of submitting his explanations/objections move this writ petition under Article 226 of the Constitution of India.

4.The charge memo can be challenged in the event of an authority issuing the charge memo without any jurisdiction or competency or an allegation on the ground of mala fides or if the charge memo is in violation of statutory rules. Even in the case of rising the allegation of mala fides, the 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 legal grounds in the writ proceedings, a writ cannot be entertained in a routine manner against the charge memo.

5.The learned counsel appearing for the writ petitioner made a submission that even on earlier occasions in relation to the similar set of charges an order of punishment of stoppage of increment was issued. However, the submission was opposed by the learned Additional Government Pleader by stating that those charges are relating to different dealings and the present charges are not connected with the earlier charges. Though the charges seems to be similar but it pertains to different transaction and therefore, it is for the competent authorities to consider all these aspects and take a decision. If a punishment was issued in respect of the same charges then the charges cannot be framed for imposing another punishment for the allegations against which a punishment was already imposed. In other words two punishments cannot be imposed for the same set of charges and keeping these aspects in mind, the respondents have to decide the matter in accordance with rules.

6.Thus, it is left open to the writ petitioner to submit his explanations/objections on the charge memo and on receipt of the same, the respondents are directed to consider the materials available on records and the explanation submitted by the writ petitioner and take a final decision in the disciplinary proceedings on merits and in accordance with law. Thus, no further consideration in respect of the grounds raised in relation to the quashing of the charge memo need to be under taken at this stage of the writ petition.

7. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To

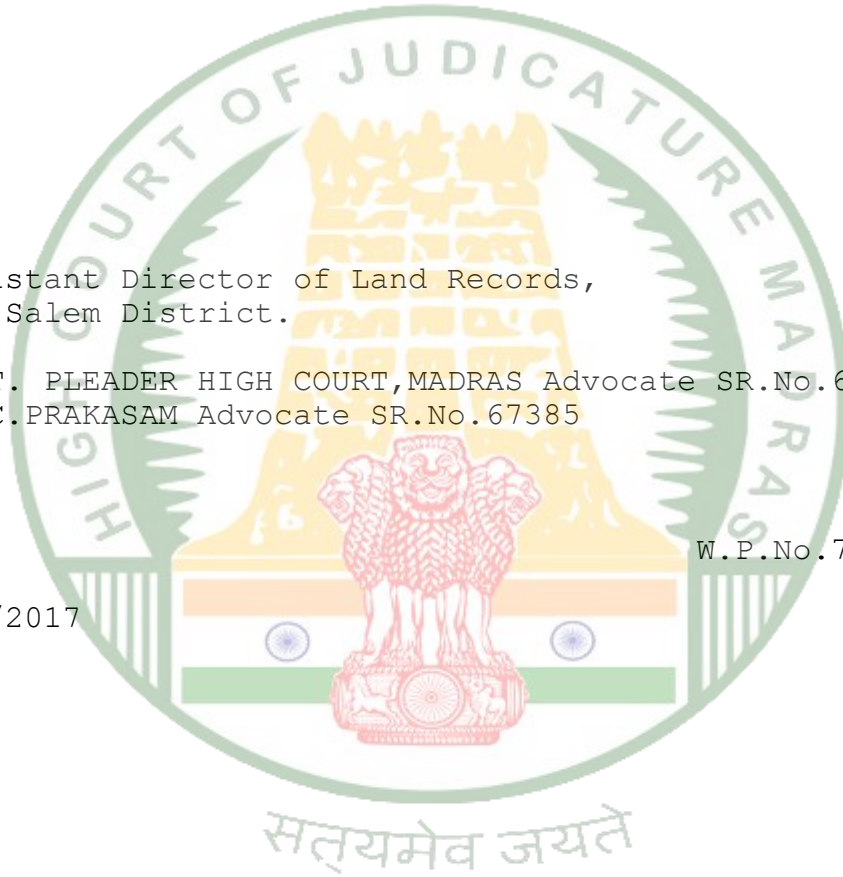
1. The Assistant Director of Land Records,
Salem, Salem District.

+1 CC GOVT. PLEADER HIGH COURT, MADRAS Advocate SR.No.67851

+1 CC Mr.C.PRAKASAM Advocate SR.No.67385

W.P.No.7727 of 2015

SJ (CO)
EGR 12/10/2017



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