

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9058 of 2015

V.Elumalai

.. Petitioner

-vs-

Inspector General of Registration
Santhome High Road
Chennai 600 004

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records in impugned charge memo No.13554/A7/2002 dated 7.3.2002 issued by the respondent and quash the same.

For Petitioner:: Mr.N.Krishnakumar

For Respondent:: Mr.S.Gunasekaran
Additional Government Pleader

ORDER

The charge memo issued to the writ petitioner in proceedings dated 7.3.2002 is under challenge in this writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner was appointed to the post of Junior Binder and thereafter promoted as Junior Assistant in the year 1980. Further the writ petitioner was promoted as Assistant in the year 1992 and to the post of Sub Registrar Grade-II in the year 1996. On account of the complaint given by one Smt.Rukmani stating that the writ petitioner has married another woman, namely, Smt.Sabitha and living as husband and wife, the respondent had initiated departmental disciplinary proceedings and issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules in memo dated 7.3.2002. The writ petitioner filed O.A.No.2697 of 2002 before the Tamil Nadu Administrative Tribunal questioning the validity of the very charge memo dated 7.3.2002. Interim stay was granted by the Tribunal on 30.4.2002 and the stay granted was extended from time to time by the Tribunal. The Tamil Nadu Administrative Tribunal was abolished and thereafter all the cases pending before the Tribunal were transferred to the High

Court of Madras and renumbered as writ petitions. However, the learned counsel for the writ petitioner states that the bundle in O.A.No.2697 of 2002 was misplaced and the same was unable to be traced by the Registry of this Court. Thus, the writ petitioner was constrained to file the present writ petition with the same prayer to challenge the charge memo issued by the respondent in proceedings dated 7.3.2002.

3. This Court is of the firm opinion that a charge memo can be challenged and, writ petition can be entertained against the charge memo only on exceptional circumstances and not in a routine manner. A writ can be issued against the charge memo if the memo was issued by an authority having no jurisdiction or competency or the allegation of mala fides are raised. Even in case of raising the allegation of mala fides, the authority against whom such an allegation is raised is to be impleaded as party respondent in writ proceedings in his personal capacity. If any charge was framed contrary to the statutory rules, then also a writ can be issued. In the absence of any one of these legal grounds, no writ proceedings can be instituted challenging the charge memo on merits. On initiation of disciplinary proceedings, delinquent officer has to submit his explanation/objections on the charge memo and prove his innocence before the enquiry officer by submitting all the evidences. Instead of participating in the enquiry, the writ petitioner has moved this writ petition challenging the charge memo and the averments set out in this writ petition are mostly relating to the merits of the case. The learned counsel for the writ petitioner states that the writ petitioner has solemnized the second marriage after getting divorce from the first wife. Such facts are to be adjudicated on merits before the enquiry officer appointed for the purpose of conducting the disciplinary proceedings. This Court under Article 226 cannot consider the merits at this stage when the enquiry proceedings are pending before the department for disposal. The disciplinary proceedings initiated against the public officials are to be allowed to be concluded and the same should reach its logical conclusion. Intermittent intervention in disciplinary proceedings are certainly not preferable. The writ petitioner has filed this writ petition questioning the charge memo only with a view to prolong and protract the proceedings. Such attitude of the petitioner is to be deprecated.

4. In this view of the matter, it is left open to the writ petitioner to submit his explanation/objections on the charge memo and participate in the enquiry proceedings and accordingly prove his innocence before the competent authorities. No further adjudication needs to be undertaken on merits in this writ petition, since the very prayer is questioning the validity of the charge memo and no other legal ground is raised in order to consider the case for issuing writ proceedings. Accordingly,

the writ petition stands dismissed. Consequently, M.P.No.1 of 2015 is also dismissed. However, no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Inspector General of Registration
Santhome High Road
Chennai 600 004

+1 cc to the Government Pleader sr 61935

W.P.No.9058 of 2015

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