

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.12.2017

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

W.P.No.24198 of 2013

and

M.P.No.2 of 2013

M.Singaravelu

..Petitioner

vs

The Commissioner of Police,
Salem City.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the Charge Memo issued by the Respondent in P.R.No.42/H1/2011 dated 14.10.2011 and quash the same.

For Petitioner : Mr.T.Ayangara Prabhu

For Respondent : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The charge memo dated 14.10.2011 is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner states that the petitioner was holding the post of Deputy Commissioner of Police in Armed Reserve and on account of certain personnel transactions, a criminal case was lodged against the writ petitioner in Crime No.1 of 2010 on 02.02.2010 by the District Central Crime Branch, Salem City. Subsequently, the writ petitioner was placed under suspension on the eve of his retirement on 28.02.2010 and consequently, his services are retained under Rule 56(1)(c) of the Tamil Nadu Fundamental Rules.

3.The learned counsel for the petitioner states that the petitioner challenged the registration of a criminal case against him and this Court quashed the criminal case in CrI.O.P.No.4429 of 2010 on 16.03.2011. Even, the private complaint, thereafter preferred by the de-facto complainant was also dismissed by the Court. Under this pretext, the petitioner

pleads that he should be exonerated from the departmental disciplinary proceedings also. The respondent however framed the charges against the writ petitioner in charge memorandum dated 14.10.2011 and proceeded with the same. Under these circumstances, the present writ petition was filed, challenging the very charge memo and an interim order was obtained. Thus, the respondent is unable to proceed further in respect of the disciplinary proceedings.

4.The learned counsel for the petitioner states that even before filing of this writ petition, the enquiry proceedings were concluded and the enquiry officer submitted his report on 17.07.2013. Based on the enquiry report, second show cause notice was also issued by the respondent on 20.02.2016. However, no final order has been passed in this writ petition.

5.The learned Additional Government Pleader appearing on behalf of the respondent states that a mere registration or pendency of a criminal case is not a bar for instituting departmental disciplinary proceedings. Further, an order of acquittal will not exonerate an employee from the disciplinary proceedings. Thus, there is no irregularity in continuing the disciplinary proceedings against the writ petitioner. This apart, the writ petitioner was holding a responsible position as the Deputy Commissioner of Police and therefore, the Government cannot show any leniency in respect of disciplinary matters. However, even before granting the interim order by this Court in this writ petition, the competent authorities have concluded the enquiry proceedings and a final report was received and the second show cause notice was also served to the writ petitioner. Thus, after receiving the explanation from the writ petitioner, the final order alone is to be passed in the disciplinary proceedings.

6.This Court is of the opinion that an order of acquittal or quashing of the criminal proceedings will not be a ground for exonerating a Government employee from the departmental disciplinary proceedings. High standard of proof is required for convicting a person under the criminal law. However, no such strict proof is required for departmental disciplinary proceedings. Preponderance of probabilities are sufficient to punish an employee under the Conduct Rules. Thus, the nature of the criminal case and the nature of the departmental proceedings are entirely different and both cannot be treated equally. Under these circumstances, this Court is of the opinion that quashing of the FIR and the criminal complaint will not constitute a ground for the writ petitioner to seek exoneration from the departmental disciplinary proceedings.

7.The learned counsel for the writ petitioner states that the petitioner should be given an opportunity to submit his

explanation/objections and all other grounds in respect of the enquiry report enclosed along with the second show cause notice. However, this Court is of the view that the enquiry proceedings were already completed and it is left open to the writ petitioner to submit his explanation/objections on the show cause notice issued to him on 20.10.2016 and thereafter, pass final orders on merits and in accordance with law based on the materials available on record. It is for the writ petitioner to submit his explanations and in respect of quashing of the charge memo, this Court is not inclined to grant the relief as such prayed for in this writ petition.

8.This Court is of the opinion that the entire disciplinary proceedings were stalled at the instance of the writ petitioner for about three and half years and therefore, authorities competent are to pass final orders in the disciplinary proceedings without causing any further delay and by considering the explanation/objections to be submitted by the writ petitioner in this regard. Thus, the writ petitioner is permitted to submit his explanation/objections and the documents to the respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is at liberty to pass final orders without causing any further delay and at the earliest possible.

9.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

The Commissioner of Police,
Salem City.

+1 CC to Mr.M. Muthappan, Advocate sr 87301.
+1 CC to Govt. Pleader sr 87682.

W.P.No.24198 of 2013

SP(21/12/2017)