IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.35859 of 2016
&
W.M.P.No.30807 of 2016

K.Pandiyan
.. Petitioner

vs.

1. The State of Tamil Nadu
   Rep. by its Principal Secretary to Government
   Commercial Taxes & Registration Department
   Secretariat, Fort St. George
   Chennai - 600 009

2. The Commissioner
   Commercial Taxes Department
   Ezhilagam, Chepauk
   Chennai - 600 005

3. The Joint Commissioner (Enforcement)
   Commercial Taxes Department
   Vellore Enforcement Division
   Vellore - 603 001

4. The Inquiry Officer-cum-
   The Deputy Commissioner (Enforcement)
   Commercial Taxes Department
   Villupuram Division
   Office of the Deputy Commissioner
   Master Plan Complex
   Villupuram - 605 602 .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus calling for the records of the 3rd respondent pertaining to the impugned Charge Memo in Rc.No.2008-VI/2014, dated 30.04.2014 and quash the same and consequently direct the respondents to declare completion of probation by the petitioner and grant the petitioner all attendant and consequent monetary benefits including promotion and seniority.

For Petitioner : Mr.Richardson Wilson
For Respondents : Mr.S.Kanmani Annamalai
Special Government Pleader

O R D E R

Heard Mr.Richardson Wilson, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, the learned Additional Government Pleader appearing for the respondents.

2. The challenge in this writ petition is to the charge memo issued against the writ petitioner on 30.04.2014. The learned counsel appearing for the writ petitioner contended that the charge memo is liable to be quashed on the grounds of its vagueness. Secondly, it was contended that the writ petitioner is no way connected and the details regarding the allegations set out in the charge memo has not been furnished to the writ petitioner and therefore, he is not in a position to contest or submit his defence to the Disciplinary Authority. At the outset the learned counsel relied on the ground that the charges framed against petitioner are vague and on the ground of vagueness, it is liable to be quashed.

3. The learned Additional Government Pleader appearing for the respondents opposed the contention by stating that all the charges framed against the writ petitioner were substantially proved and further, enquiry was conducted long back and the writ petitioner / delinquent officer participated in the enquriy. But the learned counsel for the petitioner submits that he participated in the enquiry with protest.

4. May that it be. The writ petitioner participated in the enquiry proceedings and as per the submission made by the learned counsel for the respondent, the Enquiry Officer concluded the enquiry proceedings and the enquiry report is yet to be submitted. In view of this, the challenge to a charge memo in this writ petition deserves no further consideration and adjudication. Further, a charge memo can be challenged on the limited ground of jurisdiction and incompetence, who issued the charge memo or malafide, in which case, a person against whom the allegation made has to be impleaded as a party in the writ petition. In the absence of these grounds, the writ petition cannot be

entertained to adjudicate the merits or demerits of the charge and proceedings commenced under Tamil Nadu Civil Services (Discipline and Appeal) Rules should be allowed to be continued by the competent authority. Intermittent interference of the Court in the Disciplinary Proceedings has to be cautiously entertained. This Court is of firm view that entertaining the writ petition questioning the validity of the charge memo is to be undertaken on the limited grounds and cannot be dealt with the matter on merits since it is for the competent authorities to consider the merits and demerits of the case. It is for the writ petitioner / delinquent officer to prove his innocence before the Enquriy Officer. Such being the legal principles, this Court is of the opinion that the present writ petition deserves no further consideration and the same deserves dismissal.

Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

gpa

To

1. Principal Secretary to Government
   Commercial Taxes & Registration Department
   Secretariat, Fort St. George
   Chennai - 600 009

2. The Commissioner
   Commercial Taxes Department
   Ezhilagam, Chepauk
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+1 CC to Spl. Govt. Pleader (Taxes)sr 46485

SP(17/07/2017)