

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2018

Coram

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.A.No.1257 of 2017
and
C.M.P.No.17451 of 2017

R.Ashok Kumar ...Appellant/Petitioner

Vs.

1. The Director General of Police,
Chennai - 600 004.
2. The Superintendent of Police,
Thiruvavarur, Thiruvavarur District.
3. The Deputy Superintendent of Police,
Nannilam, Thiruvavarur District. ...Respondents/Respondents

Prayer

Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order, dated 13.07.2017 passed in W.P.No.17811 of 2017 by this Hon'ble Court, praying to issue a writ of Mandamus, to forbear the respondents herein from in any manner proceeding with the disciplinary proceedings pursuant to the charge Memo issued by the Second respondent in Tha.Pa.No.11 / 2017 Rule 17(b) dated 10.04.2017 till the finalization of the cases in Crime no.1/2012 on the file for the Q Branch CID Police Pudukottai Crime No.2/2012 on the file of the Q Branch CID Police Nagapattinam and Crime No.RC MA 12013 A 0032 on the file of the Deputy Superintendent of Police Central Bureau of Investigation Anti Corruption Branch, Chennai.

For Appellant : Mr.P.Mohanraj

For Respondents: Ms.A.Srijayanthi
Special Government Pleader

JUDGEMENT

(Judgement of the Court was delivered by K.K.Sasidharan,J.)

The appellant is facing three criminal cases, initiated by the Q Branch, CID Police, Pudukottai and Nagapattinam, and Deputy Superintendent of Police, Central Bureau of Investigation, Anti Corruption Branch, Chennai.

2. The Disciplinary Authority, taking into account the involvement of the appellant, in three criminal cases, issued a charge memo, dated 10.04.2017, under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The appellant made a request before the Disciplinary Authority to defer the disciplinary proceedings till the disposal of the criminal proceedings. The request was rejected. The Writ Petition filed by the appellant, challenging the order passed by the Disciplinary Authority was dismissed by the learned single judge. The order is under challenge at the instance of the unsuccessful writ petitioner.

3. The learned counsel appearing for the appellant contended that, identical facts are involved in the criminal proceedings and the disciplinary proceedings, and as such, the appellant was right in contending that the disciplinary proceedings should be kept pending till the disposal of the criminal proceedings. According to the learned counsel, even without furnishing the material documents, the respondents initiated disciplinary proceedings against the appellant. The appellant was, therefore, justified in making a request for deferring the disciplinary proceedings.

4. We have also heard the learned counsel for the respondents.

5. The Q Branch, CID Police, Pudukottai and Nagapattinam, initiated criminal proceedings against the appellant. Similarly, the Deputy Superintendent of Police, CBI, Anti Corruption Branch, Chennai, registered a case against the appellant. The appellant was in remand, pursuant to the cases registered against him. The Disciplinary Authority, taking into account the background facts, initiated disciplinary proceedings by issuance of a charge memo, dated 10.04.2017.

6. The core issue, in this Appeal, is as to whether the Disciplinary Authority should await the disposal of the criminal cases registered against the appellant.

7. It is trite that, in a disciplinary proceeding, the preponderance of probability of the charge alone is sufficient. However, that is not the case in criminal proceedings. Even

after acquitting the accused in the criminal case, the Department can proceed with the disciplinary proceedings. Such being the position, we are of the view that the Disciplinary Authority was justified in rejecting the request made by the appellant for deferring the disciplinary proceedings.

8. We direct the respondents to provide the material papers to the appellant, pursuant to his request, in case of those material papers are relied on by the Disciplinary Authority in the pending proceedings.

9. In the upshot, we dismiss the Writ Appeal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

sd
To

1. The Director General of Police,
Chennai - 600 004.

2. The Superintendent of Police,
Thiruvapur, Thiruvapur District.

3. The Deputy Superintendent of Police,
Nannilam, Thiruvapur District.

+ 1 cc to Mr. P. Mohanaraj, Advocate Sr.11525

+ 1 cc to Mr. the Government Pleader SR.11299

सत्यमेव जयते

W.A.No.1257 of 2017
and

C.M.P.No.17451 of 2017

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EU(09/04/2018)