

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.15380 of 2008

M.Lingesan

... Petitioner

Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat,
Fort St.George,
Chennai - 9.

2.The Commissioner of Town Panchayat,
Kuralagam,
Chennai - 108.

3.The District Collector,
Vellore District,
Vellore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the impugned charge memo issued by the third respondent in Memo No.3510/Aa5/05 dated 16.06.2007 and quash the same.

For Petitioner : Mr.M.Rajendran

For Respondents : Mr.J.Ramesh for RR1-3
Additional Government Pleade

ORDER

The petitioner has come up with this writ petition, to quash Section 17(b) charge memo, dated 16.06.2007, on the ground of lack of jurisdiction of the third respondent to issue the same against him.

2.The case of the petitioner is that he was initially appointed as Junior Assistant in Town Panchayat in the year 1969. Thereafter, he was promoted to the post of Executive Officer Grade II and I. Consequent to the formation of III Grade

Municipality, the petitioner was posted as Executive Officer of Tiruttani III Grade Municipality on 04.10.2004. Subsequently, he was posted as Executive Officer of Pammal III Grade Municipality. While so, he was transferred and posted as Superintendent in the office of the Commissioner of Municipal Administration. At that time, the third respondent issued a charge memo dated 16.06.2007, under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules, alleging certain irregularities in Drought Relief Works against the petitioner, while he worked as Executive Officer, Natrampalli Town Panchayat, Vellore District between 01.04.2004 and 30.09.2004, based on the audit done by the Assistant Director of Local Fund Audit, Vellore. Aggrieved over the same, the petitioner is before this Court with the present writ petition.

3. Upon notice, the third respondent filed a detailed counter affidavit, wherein, at para 6, it has been specifically averred as follows:

"6. Regarding para 7 of the affidavit I submit that the petitioner was transferred from Thiruthani to Pammal Third Grade Municipality and later posted as Superintendent in the office of the Commissioner of Municipal Administration. While working as Superintendent in the office of the Commissioner of Municipal Administration, the petitioner was charge sheeted by the Third Respondent in the Charge Memo.Rc No.3510/2005/B/ dated 16.06.2007 under Rule 17 (b) of Tamil Nadu Civil Services (D & A) Rules for the irregularities committed by him while working as Executive Officer in Natrampalli Town Panchayat of Vellore District. The charge pertained to drawl of a sum of Rs.5.34 lakhs by means of self cheque during the period between 3 /2004 to 9/2004 for which he has not accounted properly. The charge memo was served to him by the Assistant Director of Town Panchayat, Vellore Zone in letter Roc. No.3510/05/B, dated 17.07.2007 addressed to his appointing authority viz., Commissioner of Municipal administration. The petitioner received the charge memo on 23.07.2007. Issuing of charge memo by the Third respondent does not amount to punishment. It is only a Charge Memo for the incident that took place when the petitioner was an employee of Town Panchayat and that too the petitioner was serving under the administrative control of the Third Respondent. Therefore, it is not correct to say, that the respondent has no jurisdiction to issue the charge memo against the petitioner. The petitioner has not given any written representation to the Third Respondent. Further more, the petitioner has not mentioned the date of the petition reported to have

been sent to the Third Respondent. Therefore, the averment is untrue and baseless. In view of non receipt of representation from the petitioner, the question of replying to the petitioner does not arise."

4.From a reading of the aforesaid averments made in the counter affidavit, it is clear that the charges were framed based on the audit objections relating to unaccounting of the amount drawn by the petitioner to the tune of Rs.5.34 lakhs by means of self cheque and the respondent authorities have granted reasonable time, enabling the petitioner to submit his explanation with regard to the accumulation for adjustment of advances. However, the petitioner failed to avail the opportunity given by the respondent authorities and he has not even replied to the charge memo issued against him, but, has straightaway approached this Court with the present writ petition, questioning the jurisdiction of the third respondent to issue such a charge memo against him. Such sort of approach on the part of the petitioner cannot be countenanced by this Court.

5.Finding no merits, this writ petition deserves to be dismissed and is accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai - 9.

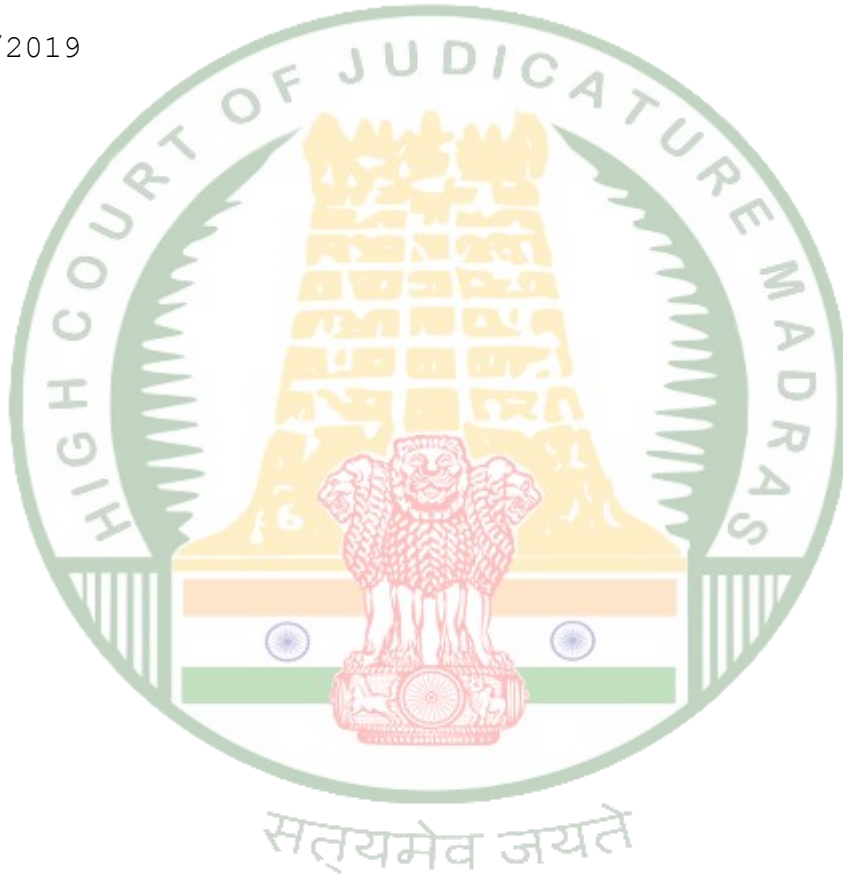
2.The Commissioner of Town Panchayat,
Kuralagam,
Chennai - 108.

3.The District Collector,
Vellore District, Vellore.

+1cc to the Government Pleader sr.77718

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