BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRs. JUSTICE R.THARANI

WA (MD) No.497 of 2018
in
WP(MD)No.10796 of 2016

M.Murugan ... Appellant /Petitioner

Vs.

1.The Secretary, to Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai.

2.The Commissioner of Revenue Administration,
Elilagam, Chepauk,
Chennai.

3.The District Collector,
Theni District, Theni.

4.The Revenue Divisional Officer,
Periyakulam,
Theni District. ...Respondents/Respondents

Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 05.02.2018 made in W.P.(MD)No.10796 of 2016.

Prayer in WP(MD). 10796/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the Impugned Charge Memo passed by the 4th respondent in Na.Ka.No.5200/2012/A7 dated 26.05.2016 and the consequential Impugned order passed by the 4th respondent in Roc.No.5200/2012/A-7 dated 31.05.2016 and quash the same as illegal and consequently directing the respondents to allow the petitioner to retire from service with all monetary benefits.

For Appellant : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.V.R.Shanmuganathan, Spl.G.P.

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J)

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2.This appeal is directed against the order dated 05.02.2018 made in W.P.(MD) No.10796 of 2016, where the petitioner challenged the departmental charge memo issued by the fourth respondent dated 31.05.2016 on the ground that in the criminal case, in which the petitioner was charged for having accepted a bribe of Rs.1,500/- and caught red handed by the Vigilance and Anti Corruption police, has been acquitted in the criminal proceedings. The very same person, who had issued charge memo had accepted in his deposition that the petitioner has followed the proper procedure under the Government Order and therefore, it is submitted that the charge memo has to be quashed.

3.In our considered view, the Writ Court rightly held that the charge memo cannot be quashed by way of a writ petition on the grounds raised by the appellant. The attempt made by the learned counsel for the appellant before us is to go into the factual position and to ascertain as to whether the charge as framed against the appellant is made out or not. This exercise cannot be done in a writ petition.

4.The learned counsel for the appellant placed reliance on the decision of the Division Bench in the case of *The State of Tamil Nadu and another Vs. T.Renganathan - 2010-2 L.W.867*, wherein the Court held that when a time limit has been fixed for completing the proceedings, the time is not adhered to, then, the proceedings cannot be continued further. The learned counsel for the appellant referred to the earlier order passed in W.P.(MD) No.8302 of 2016 dated 27.04.2016, which was filed by the appellant challenging an order of suspension and calling upon the respondents to revoke the order of suspension. The prayer sought for therein was granted, direction was issued to proceed with the enquiry and complete the same within four weeks.

5.In our considered opinion, the facts, which led the issuance of the direction in the case of *T.Renganathan*, were totally different from that of the facts of the present case. The petitioner had challenged the charge memo for the first time in the writ petition filed during 2016 and the challenge is on the ground that the deposition of the prosecution witness before the criminal

Court is in his favour. Therefore, the decision of the Hon'ble Division Bench in the case of *T.Renganathan* cannot be applied to the facts of this case.

6.The learned counsel for the appellant represented that the Government has issued directions to the effect that if the charges are not serious, then the penal procedure has to be altered and disciplinary proceedings should be issued under Rule 9 of the Tamil Nadu Pension Rules 1978. These contentions have to be advanced by the appellant while defending the charge memo, after submitting reply to the charge memo and that cannot be reason for quashing the charge memo.

7.The learned counsel for the appellant referred to the decision of the Division Bench in *S.Subramanian, Sub Registrar V. The State of TN & Others - 2018-1 Writ L.R.142* and submitted that in the said case, charge memos were quashed. We find that the reason for quashing the charge memo in the case was on the ground that the charge memo was bereft of particulars. However, in the instant case before us, such a stand has not been taken by the appellant, rather the appellant wants to extricate himself from the charge and get absolved of the allegations on the ground that the prosecution witness in the criminal case has given a deposition, which is wholly in favour of the appellant. Therefore, the decision in the case of *S.Subramanian, Sub Registrar V. The State of TN & Others - 2018-1 Writ L.R.142* referred to is clearly distinguishable.

8.Thus, for the above reason, we find no reason to entertain this writ appeal. This writ appeal is dismissed. However, liberty is granted to the appellant to raise all contentions at the time when he submits the explanation to the impugned charge memo. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To
1.The Secretary, to Government of Tamil Nadu,
Revenue Department, Fort St. George, Chennai.
2.The Commissioner of Revenue Administration,
Elilagam, Chepauk, Chennai.
3.The District Collector, Theni District, Theni.
4.The Revenue Divisional Officer,
Periyakulam, Theni District.
+1cc to The Special Government Pleader, SR.No.59058
+1cc to M/s.D.Shanmugarajasethupathi, Advocate, SR.No.58147
Arul

RL/7C/3P/SV/MMS/SAR2/20/4/2018 W.A(MD) No.497 of 2018
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