



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

W.P.(MD)Nos.8795 and 8796 of 2018
and

W.M.P.(MD)Nos.8226 to 8229 of 2018

T.Ranjith ...Petitioner in both petitions

-Vs-

The District Collector,
Thoothukudi District,
Thoothukudi.

..Respondent in W.P.(MD)No.8795 of 2018

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.E.Balasubramanian,
Superintendent,
District Rural Development Agency,
Thoothukudi District.

.. Respondents in W.P.(MD)No.8796 of 2018

PRAYER in W.P.(MD)No.8795 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned charge memo in Na.Ka.No.Va.2/23990/2016-1 dated 23.02.2018 on the file of the respondent NO.1 and quash the same as illegal.

PRAYER in W.P.(MD)No.8796 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondent to include the petitioners name in the promotion panel for the post of Block Development Officer for the year 2018 by placing the petitioner above the respondent No.2 in Serial No.25 and consequently, promote the petitioner to the post of Block Development Officer within the time frame stipulated by this Court.

For Petitioner
For Respondents

: Mr.T.Lajapathi Roy
: Mr.D.Muruganantham
Additional Government Pleader

**ORDER**

The prayer sought for in W.P.(MD)No.8795 of 2018 is for a writ of Certiorari, to call for the records pertaining to the impugned charge memo in Na.Ka.No.Va.2/23990/2016-1 dated 23.02.2018 on the file of the first respondent and quash the same as illegal.

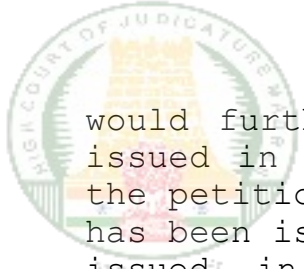
2.The prayer sought for in W.P.(MD)No.8796 of 2018 is for a writ of Mandamus, to direct the respondent to include the petitioner's name in the promotion panel for the post of Block Development Officer for the year 2018 by placing the petitioner above the respondent No.2 in Serial No.25 and consequently, promote the petitioner to the post of Block Development Officer within the time frame stipulated by this Court.

3.Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

4.The short facts which are required to be noticed for the disposal of these writ petitions are that, the petitioner was joined as Rural Welfare Officer-Grade II / Junior Assistant on 19.10.1994. Thereafter, he was promoted as Assistant and was further promoted as Deputy Block Development Officer and with the said post, the petitioner has been presently working at the office of the Deputy Block Development Officer (General) in Sathankulam Panchayat Union in Tuticorin. While so, the disciplinary action has been initiated against the petitioner and a show cause notice dated 22.12.2016 was issued. The petitioner had given his explanation to the show cause notice on 19.01.2017 but not satisfied with the said explanation, the District Collector, Thoothukudi District has issued a charge memo dated 23.02.2018, which is impugned in W.P.(MD)No.8795 of 2018.

5.I have heard the learned counsel for the petitioner who would submit that as per the circular dated 14.12.1993, group of officers and employees of the Government, against whom disciplinary proceedings are initiated, the charge memo prepared and served only by the highest officer depending upon the officials in the group of officials and employees against whom, such proceedings were initiated. Here is the case on hand, it was the charge against number of officials including the petitioner and based on such view of the matter, the disciplinary proceedings should have been initiated by framing charges only by the competent authority, according to the learned counsel for the petitioner, such authority shall be the Secretary to Government.

6.Therefore, the learned counsel for the petitioner would submit that, since the present impugned charge memo has been issued by the first respondent, who is the District Collector, who is not competent to issue the same, on that ground this charge memo has to be interfered with. The learned counsel for the petitioner



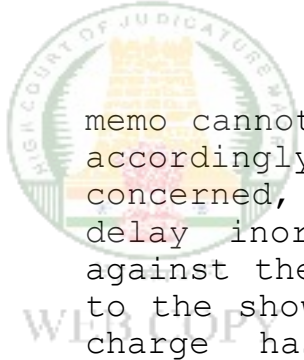
would further submit that, even though the show cause notice was issued in December 2016, explanation was given in January 2017 by the petitioner, now belatedly after one year the present charge memo has been issued at the verge of the petitioner's promotion, which is issued in order to stall the promotion of the petitioner. Therefore, the learned counsel for the petitioner would submit that, the impugned charge memo has been issued belatedly and therefore, on the ground of delay also the same shall be interfered with.

7. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that, the two reasons cited by the learned counsel for the petitioner as grounds to assail the impugned charge memo are totally unjustifiable, because, insofar as the impugned charge memo is concerned, it has been made only against the petitioner, who is a Deputy Block Development Officer against whom the competent authority / disciplinary authority being the District Collector, can very well issue charge memo and he has rightly done the same. Therefore, the said plea made by the petitioner based on the circular dated 14.12.1993, will not be applicable to the present case because charge memo is against the petitioner, who is admittedly the Deputy Block Development Officer and therefore the respondent / The District Collector is the competent authority who issued such impugned charge memo and therefore on that ground the same cannot be assailed.

8. The learned Additional Government Pleader would submit further that, insofar as the ground of delay is concerned, it is neither wanton nor deliberate, as show cause notice was issued on 22.12.2016, for which explanation was given by the petitioner on 19.01.2017. Thereafter, it was considered by the respondent / District Collector and after having considered the same, it was decided to continue disciplinary proceedings by framing definite charges against the petitioner and after framing charges against the petitioner, it was served to the petitioner on 22.03.2018. It cannot be stated that the said impugned charge memo has been framed and issued against the petitioner belatedly. Therefore, both contentions, according to the learned Additional Government Pleader, may not be justifiable and therefore, no interference is required in the impugned charge memo.

9. I have considered the said submission made by the learned counsel on both sides.

10. As has been rightly pointed out by the learned Additional Government Pleader appearing for the respondent that since the charge memo is only against the petitioner who is the Deputy Block Development Officer, the respondent is the competent authority to issue the charge memo. Hence the point taken by the petitioner that the respondent is not the competent authority to issue the charge



memo cannot be accepted and the said plea is liable to be rejected, accordingly it is rejected. Insofar as the ground of delay is concerned, this Court is of the considered view that there is no delay inordinately in framing charges and issuing charge memo against the petitioner as after explanation given by the petitioner to the show cause notice within a period of one year, the impugned charge has been framed and issued against the petitioner. Therefore, considering the length of the period, it cannot be said that the respondent framed charges belatedly. This Court feels that it is not a huge delay in issuing charge memo and therefore, the said plea of the petitioner also cannot be accepted accordingly, the same is rejected.

11. Since no other plea has been raised assailing the impugned charge memo and the petitioner has got every right to give explanation to the charge memo and if the authority decided to conduct enquiry where also the petitioner will get a chance of participating in the enquiry and cross examine the witnesses, if any, on behalf of the prosecution, the petitioner can very well face the disciplinary proceedings, since the same has been initiated and the charge memo also has been filed against him. Therefore, this Court finds no merits in the case and accordingly, this Writ Petition fails and the same is dismissed.

12. Insofar as W.P.(MD)No.8296 of 2018 is concerned, in view of the order passed in W.P.(MD)No.8295 of 2018, wherein the challenge made against the impugned charge memo has been rejected and the petitioner was directed to face disciplinary proceedings by giving explanation to the charge memo within the time frame, the present prayer sought for in this writ petition to consider the name of the petitioner for promotion to the post of Block Development Officer, cannot be considered at this point of time. At the same time, if the petitioner comes out successfully in the disciplinary proceedings, it need not be mentioned that the petitioner shall be entitled to get all service benefits including promotion, for which, he sought for direction herein. Therefore, this plea is also liable to be rejected. Accordingly, it is dismissed.

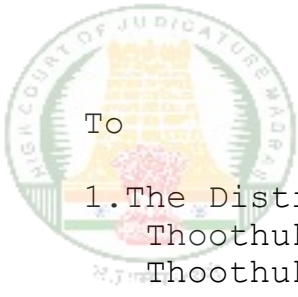
14. In the result both writ petitions are dismissed with the aforesaid directions and observations. Consequently, W.M.P.(MD) Nos.8226 to 8229 of 2018 are dismissed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar (CS-I)



To

1.The District Collector,
Thoothukudi,
Thoothukudi District.

2.E.Balasubramanian,
Superintendent,
District Rural Development Agency,
Thoothukudi District.

+2cc to Mr.T.Lajapathi Roy, Advocate, Sr.Nos.62684 & 62685.
+1cc to Special Government Pleader, Sr.No.63074.

W.P. (MD) No.8795 and 8796 of 2018
20.04.2018

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RAM-KK/RP/SAR 1/04.12.2018/5P/6C