



2.The learned Additional Government Pleader appearing for the respondent would point out that the judgment of acquittal has not attained finality and that an appeal has since been preferred and the same is pending.

3.The challenge in the writ petition is to the charge memo dated 26.05.2016 and the consequential order dated 31.05.2016, whereby the petitioner has not been permitted to retire from service on attaining the age of superannuation on 31.05.2016.

4.Heard the learned counsel appearing for the petitioner. The learned counsel would reiterate the grounds urged in the affidavit filed in support of the writ petition. He would also point out that the charges are virtually non-est in law. A further plea is taken to the effect that the charge issuing authority while deposing as witness before the criminal Court, took a different stand altogether. The order retaining the petitioner in service is only consequential in nature. Since the charge memo dated 26.05.2016 was issued, the petitioner has been retained in service.

5.It has been held by the Hon'ble Supreme Court of India in the decision reported in **(2006) 12 SCC 28 (Union of India Vs. Kunisetty Satyanarayana)** that a writ petition impugning a charge memo is ordinarily not maintainable. Of course, if it can be shown that the charge memo is without jurisdiction or is otherwise wholly illegal, this Court can invoke the jurisdiction under Article 226 of Constitution of India. The writ petitioner's case is not that the charge memo is without jurisdiction. In fact, the writ petitioner wants this Court to wade through materials on record and thereafter, give a finding that the charge memo is non-est. In otherwords, the factual investigation is asked to be undertaken. Such an exercise cannot be undertaken in this case. This Court cannot lose sight of the fact that the writ petitioner was arrested for having accepted a bribe amount of Rs.1,500/- on 15.11.2012 by the Vigilance and Anti Corruption Police. It is true that the petitioner was acquitted of the charges. But, then the acquittal has not attained finality since a criminal appeal is still pending on the file of this Court.

6.In such circumstances, merely on the ground that the petitioner is able to show some divergence in the stand of the authorities in the criminal case and in the departmental proceedings, this Court is not inclined to interfere in the matter. This writ petition therefore stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar



To
1. The Secretary, to Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai - 9.

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

3. The District Collector,
Theni District, Theni.

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

+ 1 CC TO Mr.D.SHANMUGA RAJA SETHUPATHI, ADVOCATE IN SR No. 46747

ARUL

TE/SKN-RSK/SAR-1 : 23/02/2018 : 3P/6C

W.P.(MD)No.10796 of 2016 and
W.M.P.(MD) Nos.8383 and 17816 of 2017
05.02.2018