

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.22151 of 2013

P.Nagarajan

..Petitioner

Vs

Revenue Divisional Officer
Dharmapuri.

..Respondent

Prayer:- This Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent, relating to (1) Pro.Na.Ka. No.13877/2002/A3 dated 31.7.2010 (Order of Suspension) and (2) Pro.Na.Ka. No.13877/2002/A3 dated 31.7.2010 (Order not permitting to retire) and 3) Pro.Na.Ka.No.13877/2002/A1 dated 06.02.2013 to quash the same and issue consequential directions to the respondent to permit the petitioner to retire from service on 31.7.2010 A.N without any condition and with all consequential benefit.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.J.Ramesh

Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the suspension order and not to permit him to retire from service and charge memo issued by the respondent.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3. The writ petitioner was serving as Village Administrative Officer, Pulikkarai, Palacode Taluk, Dharmapuri District from 16.09.2001 to 28.12.2002. The writ petitioner was implicated in

a criminal case lodged by the Vigilance and Anti Corruption Special Wing, Krishnagiri under the Prevention of Corruption Act and the same was taken on file in C.C No.24 of 2003 before the Chief Judicial Magistrate, Krishnagiri. During the pendency of the criminal case, the writ petitioner was placed under suspension on 29.12.2002 by the respondent herein and the aforesaid suspension order was challenged before the Tamil Nadu Administrative Tribunal and by an order dated 29.09.2003, the Tribunal issued directions to the authorities to reinstate the petitioner in service. Thereafter, the petitioner was reinstated in service as Village Administrative Officer of Elimichanalli Village. The Chief Judicial Magistrate, Dharmapuri @ Krishnagiri, by judgment dated 27.07.2007, sentenced the petitioner to undergo two years Rigorous Imprisonment and to pay fine of Rs.2000/- failing which to undergo three months Rigorous imprisonment. The respondent has issued a show cause notice under Rule 17 (c)(i)(i) of the TNSC (D & A) Rules, as to why he should not be dismissed from service and a suspension order was also passed by the respondent. Challenging the aforesaid order, the writ petitioner has filed W.P No.12355 of 2008 and by an order dated 20.05.2008, interim stay was granted by this Court. In the meanwhile, the petitioner submitted his explanation to the show cause notice dated 20.03.2009. Subsequently, the respondent has passed an order of dismissal from service based on the conviction of the criminal Court. Pursuant to the orders passed by this Court in W.P No.10080 of 2009 on 29.07.2010, the petitioner was reinstated in service on 29.07.2010 and he was due to retire on 31.07.2010, after attaining the age of superannuation. The respondent has placed the petitioner under suspension on the ground that the conviction and sentence imposed in the criminal case has not been implemented and not permitted the petitioner to retire from service in view of the pendency of appeal against conviction. Challenging the judgement of the Chief Judicial Magistrate, Dharmapuri, the petitioner preferred a criminal appeal before this Court in CrI.A.No.738 of 2007 and by a judgement dated 23.03.2011, the petitioner was acquitted from the criminal case and the same has become final. Charges were also framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (D & A) rules in Na.Ka.No.13877/2007/B1 dated 06.02.2013. Challenging the aforesaid suspension order and charge memo, the present Writ Petition has been filed by the petitioner.

4. According to the learned counsel appearing for the petitioner, the aforesaid charges are vague and bereft of material particulars. Therefore, the petitioner expected to submit his explanation for the alleged charges framed against him which is vague in nature and the charges are not specific.

Therefore, challenging the suspension order and charge memo, the present writ petition has been filed.

5. The learned Additional Government Pleader would submit that there is no ground to interfere with the impugned suspension order as well as the charge memo framed as against the petitioner. The petitioner has to submit his explanation before the authority specifying the aforesaid charges and the authority will consider his explanation and pass orders.

6. I have gone through the submissions made by the counsel appearing for both parties.

7. In the present writ petition, at the time of admission, there is no interim order granted by this Court. The petitioner is challenging the impugned suspension order and also the order passed by the respondent not permitting him to retire from service pending 17(b) charges framed against him. There is no other materials placed before this Court to interfere with the suspension order. Therefore, this Court is not inclined to interfere with the suspension order.

8. The respondent has framed the following charges as against the petitioner which is extracted hereunder:

(1) In violation of Government Orders and circulars of superior officers, failed to reside in the charge village of Pulikkarai but at Palacode.

(2) Violation of conduct Rules, Govt. Orders and direction of the higher authorities by receiving bribe / presentation either directly or indirectly or through others.

(3) Instead of furnishing copies of Village accounts and records to the Public as per rules, received bribe for furnishing copy of Chita and Adangal for getting electricity connection and was arrested by the Vigilance and Anti-corruption Officials and thereby proved himself unfit to serve as Village Administrative Officer and conducted himself in a way to tarnish the image of the Department / Government.

(4) Violation of Rules 20(1) and Rule 20(3) of Tamil Nadu Government Servants Conduct Rules.

9. The writ petitioner is challenging the charge memo on the ground that the aforesaid charges are vague and bereft details as if the petitioner did not reside in the particular village. The aforesaid contention of the petitioner cannot be accepted at this stage. The Hon'ble Supreme Court in the case of Union of India and another v. Kunisetty Satyanarayana in (2006) 12 SCC 28, held as under :

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.

Therefore, this Court is of the view that the petitioner has to submit his explanation before the authority.

10. In view of the foregoing discussion and decision cited supra, this Court is not inclined to interfere with the impugned orders. Hence the writ petition is devoid of merits and the same is liable to be rejected.

11. In the result, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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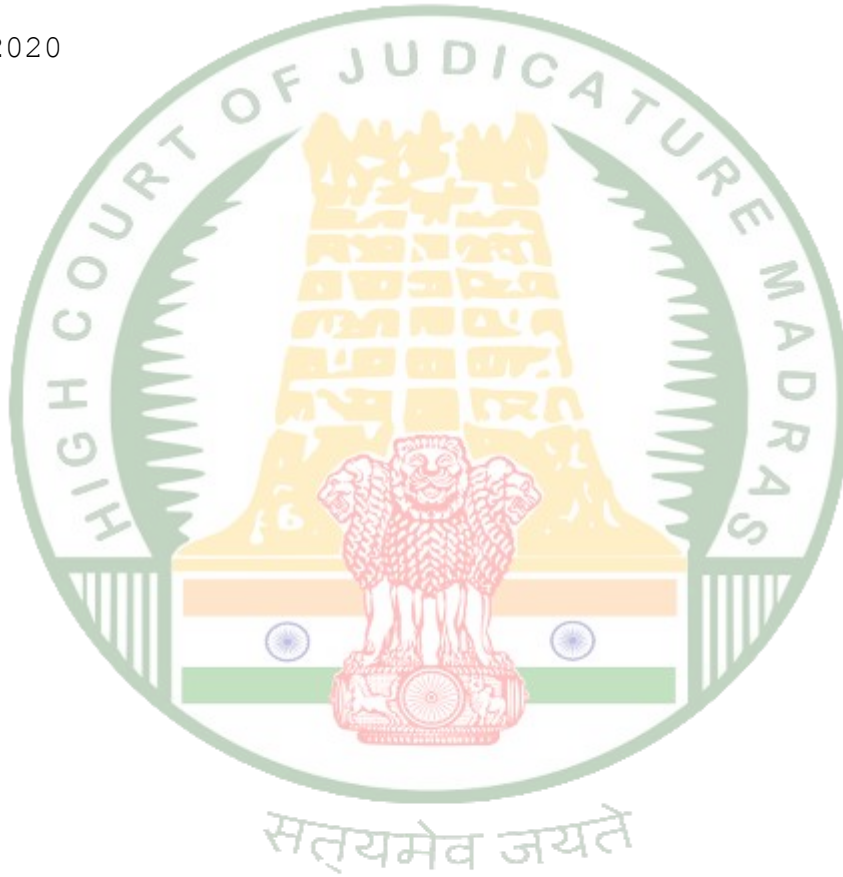
To

Revenue Divisional Officer
Dharmapuri.

+1cc to Mr.M.Ravi, Advocate sr.102808
+1cc to Government Pleader SR.NO. 102499

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