

IN THE HIGH COURT OF JUDICATURE AT MADRAS

26.06.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.17785 of 2019

and

W.M.P.Nos.17191 and 17195 of 2019

T. Venkatachalam

...Petitioner

Vs.

1. The Commissioner of Police,
O/o. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 7.

2. The Deputy Commissioner of Police,
O/o The Deputy Commissioner of Police,
Ambattur District, Greater Chennai Police,
Avadi, Chennai - 54.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records of the proceedings of the second respondent issued in PR.No.13/WZ/2018 u/r 3(b) dated 28.03.2018 and quash the same and consequential direct the respondents to consider the petitioner for promotion to the post of Head Constable, on par with his batch mates, with all attendant and monetary benefits.

For Petitioner

.. Mr.V.Ravikumar

For Respondents

.. Mr.J.Pothiraj, Spl.G.P.

ORDER

The writ petition has been filed challenging the charge memo issued against the petitioner under Rule 3(b) of the Tamil Nadu Police Subordinate Service Rules.

2.The challenge to the charge memo is made principally on the ground that the same was issued after a period of 11 years.

3.The case of the petitioner is that he joined the service as Grade-II Police Constable on 15.04.1997 and was promoted to the post of Grade-I Constable on 15.04.2007. He was implicated in a criminal case and the same was registered in Crime No.7 of 2008 under Section 7 of the Prevention of Corruption Act, 1988, on 12.10.2007. The allegation against the petitioner was that he has demanded and accepted illegal gratification while discharging his duty. The criminal case was filed and ultimately it appears that the criminal Court acquitted the petitioner from the allegation, on 21.03.2016. Thereafter, the present charge memo has been issued.

4. The learned counsel appearing for the petitioner would submit that the charge memo has been issued after a period of 11 years, that too, when the petitioner has been honourably acquitted by the Criminal Court. Therefore, the charge memo is per se illegal and liable to be interfered with.

5. This Court is unable to appreciate the legality of such argument advanced on behalf of the petitioner. Usually when disciplinary action is proceeded with, during the course of the criminal trial, a plea is raised before this Court that the disciplinary action should be stalled till the completion of the criminal proceedings initiated against the charged officer. When the charge sheet is issued after completion of the trial, it is now complained that the charge memo has been issued after a period of 11 years. Therefore, this Court is of the view that such double stand cannot be allowed to prevail and on that basis this Court cannot interfere with the charge memorandum.

6. It is trite in law that the standard of proof in criminal trial and in the departmental action is completely different. As far as the department action is concerned, preponderance of probabilities is fair enough to find the guilt of the charged person. Therefore, it cannot be gain said that once the criminal Court acquitted the petitioner, the Department hands are completely tied and no further departmental action could be pursued against the charged officer.

7. In the above circumstances, this Court is of the view that the challenge to the charge memo has to necessarily fail and hence, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Commissioner of Police,
O/o. The Commissioner of Police,
Greater Chennai Police,
Vepery, Chennai - 7.
2. The Deputy Commissioner of Police,
O/o The Deputy Commissioner of Police,
Ambattur District, Greater Chennai Police,
Avadi, Chennai - 54.

+1 cc to M/s.V.Ravikumar, Advocate, S.R.No.52673

+1 cc to the Government Pleader, S.R.No.54021

W.P.No. 17785 of 2019

CP(CO)
SSM(02/08/2019).

सत्यमेव जयते
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