



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P.(MD)No.13843 of 2019

and W.M.P.(MD)Nos.10361 & 10362 of 2019

S.Kamaraj

... Petitioner

Vs.

The State Rep. by

1. The Director,

Adi Dravidar and Tribal Welfare Department,

Ezhilagam,

Chennai - 5.

2. The District Adi Dravidar and Tribal Welfare Officer,
Office of the Adi Dravidar and Tribal Welfare Officer,
Theni District,
Theni.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relates to the impugned Charge Memo issued by the second respondent in his Proceedings Nil, dated 18.01.2017, quash the same as illegal and consequently, direct the second respondent to disburse all the monetary benefits, which are outstanding during suspension period to the petitioner.

For Petitioner : Mr.T.Vadivelan

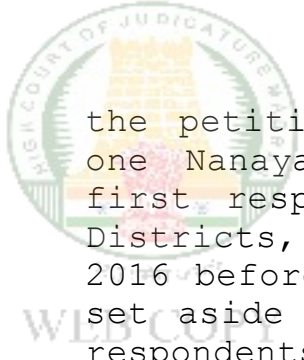
For Respondents : Mr.M.Pandiarajan
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking to quash the impugned Charge Memo issued by the second respondent, in his Proceedings Nil, dated 18.01.2017, and consequently, direct the second respondent to disburse all the monetary benefits, which are outstanding during suspension period to the petitioner.

2.Mr.M.Pandiarajan, learned Additional Government Pleader takes notice for the respondents.

3.According to the petitioner, he was appointed as a Cook in the Adi Dravidar and Tribal Welfare Department, Theni, in the year 2001 and thereafter, he was promoted as a Jeep Driver and has been working in the said Department for the past 15 years, without any remarks. On 29.07.2016, the District Collector, Theni, relieved



the petitioner, due to quarrel arose between the petitioner and one Nanayam, Superintendent and directed them to approach the first respondent and get alternative work place in some other Districts, against which, the petitioner filed W.P.(MD)No.13800 of 2016 before this Court and this Court, by order dated 03.08.2016, set aside the order dated 29.07.2016 and granted liberty to the respondents therein to proceed against the petitioner, if so advised, in the manner known to law. Thereafter, the petitioner approached the District Collector, Theni, and gave a representation dated 06.08.2016 along with a copy of the order passed in W.P.(MD)No.13800 of 2016. The District Collector, Theni, passed an order dated 08.08.2016, set aside his earlier order dated 29.07.2016 and directed the petitioner to join again as Jeep Driver in Adi Dravidar and Tribal Welfare Department, Theni District. The petitioner has also joined duty on 08.08.2016. Thereafter, on 09.08.2016, the second respondent passed an order suspending the petitioner. Challenging the said order, the petitioner has filed W.P.(MD)No.15859 of 2016 before this Court and the same is still pending before this Court. During the pendency of the said Writ Petition, the second respondent has passed an another order dated 09.08.2016, directing the petitioner to hand over Jeep, Keys, Log Books, Diesel Book to one Manoharan. The petitioner has also handed over the said things to the said Manoharan on 11.08.2016. While he was under suspension, the second respondent did not issue any charge memo with respect to the allegations levelled against the petitioner in the suspension order dated 09.08.2016. Thereafter, the petitioner has received the charge memo, dated 18.01.2017, wherein, some other charges were framed against him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and the same was issued after a period of 5 months and the charges are not at all connected with the above said suspension order. Hence, the present Writ Petition.

4.The learned Additional Government Pleader appearing for the respondents submitted that there is no ground made out to interfere with the charge memo and it is for the petitioner to submit his explanation and to face the departmental enquiry. He further submitted that it is well settled law that this Court cannot interfere with the charge memo unless the charge memo is vague or issued without jurisdiction and therefore, he prayed for dismissal of the Writ Petition.

5.Perusal of the available materials shows that the petitioner has challenged the charge memo on the specific ground that already the second respondent has passed an order dated 09.08.2016, suspending him from service and now, the present charge memo has been issued under different set of charges. It is well settled that writ against the charge memo is not maintainable, unless it is shown that the said charge memo is issued without jurisdiction. In this case, there is no such ground is raised and therefore, there is no *prima facie* case made out by the petitioner to interfere with the said charge memo.



6. In view of the principles laid down by the Hon'ble Apex Court in **Union of India vs. Kunisetty Satyanarayana** reported in **AIR 2007 SC 906**, this Court is not inclined to interfere with the impugned charge memo.

7. The learned counsel appearing for the petitioner submitted that the petitioner has submitted explanation before the second respondent.

8. Therefore, this Writ Petition is dismissed with a direction to the second respondent to consider the explanation of the petitioner and pass final orders within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Director,
Adi Dravidar and Tribal Welfare Department,
Ezhilagam,
Chennai - 5.
2. The District Adi Dravidar and Tribal Welfare Officer,
Office of the Adi Dravidar and Tribal Welfare Officer,
Theni District,
Theni.

+ 1 CC TO Mr.T.Vadivelan, ADVOCATE IN SR No.70133
+ 1 CC to The Special Government Pleader SR.No.70684

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20.06.2019

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