



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.13992 of 2019

and

W.M.P(MD)No.10475 of 2019

WEB COPY

N.Thanasingh

... Petitioner

Vs.

The Director of Town Panchayats,
Directorate of Town Panchayats,
Urban Administration Office Building,
7 & 8th Floor, MRC Nagar,
Chennai-28.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned charge memo issued by the respondent in Letter No.13967/2018/A1 dated 06.05.2019 along with all annexure and quash the same.

For Petitioner : Mr.M.P.Senthil
For Respondent : Mr.VR.Shanmuganathan
Special Government Pleader

ORDER

This writ petition is filed challenging the impugned charge memo issued by the respondent in Letter No.13967/2018/A1 dated 06.05.2019.

2. The petitioner was appointed as Bill Collector in the year 1987 in Sawyerpuram Town Panchayat, Thoothukudi District and was promoted as Junior Assistant, Grade-II Executive Officer and after various promotions, he is working as Executive Officer, Selection Grade, Vilathikulam Town Panchayat, Thoothukudi District. While he was working as Executive Officer, the respondent issued charge memo dated 06.05.2019, alleging that while he was working as Executive Officer, Vilavoor Town Panchayat, Nagercoil Zone, Kanyakumari District, between 12.11.1999 to 05.09.2001 did not maintain the water supply Stock Register, Tool and Plants Register, History Sheet for Motors, Contractor Register, which were necessary in the Vilavoor Town Panchayat. The petitioner has come out with the present writ petition challenging the said charge memo dated 06.05.2019.

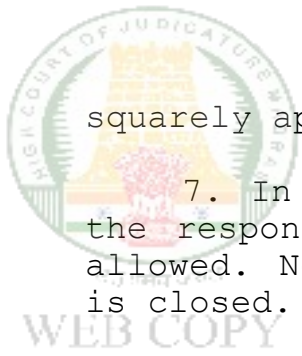


3. The learned counsel appearing for the petitioner submitted that the charge memo was issued in the year 2019 for the alleged misconduct for the period from 12.11.1999 to 05.09.2001. The petitioner came to know that the criminal case has been registered in the year 2015 and charge-sheet has been filed in Special Case No.3 of 2018, on the file of the Chief Judicial Magistrate-cum-Special Judge, Kanyakumari District at Nagercoil. According to the learned counsel for the petitioner, the charge-memo issued after a lapse of 19 years, is invalid. The petitioner has only 2 ½ years of remaining service. In support of his contention, the learned counsel appearing for the petitioner relied on the judgment of the Hon'ble Supreme Court of India in ***P.V.Mahadevan vs. M.D., Tamil Nadu Housing Board*** reported in **2005(4) CTC 403**.

4. The respondent filed counter affidavit and denied all the averments made in the affidavit. Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondent submitted that while the petitioner was working as Executive Officer, Vilavoor Panchayat, Nagercoil Zone, Kanyakumari District between 12.11.1999 to 05.09.2001, he colluded with others created documents as though submersible motors were purchased and erected, whereas, no motor was purchased. The petitioner failed to maintain the registers and in collusion with others, misappropriated the funds and caused loss to the respondent. A criminal case has been registered and charge-sheet has been filed in Special Case No.3 of 2018. Based on the investigation report in the criminal case, charge memo is issued. The respondent can initiate the departmental proceedings even the criminal case is pending and there is no bar for departmental proceedings. The departmental proceedings and the criminal case can be proceeded simultaneously.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. From the materials on record, it is seen that the respondent issued charge memo dated 06.05.2019 to the petitioner for the alleged irregularities committed by him between 12.11.1999 to 05.09.2001. The respondent has not explained the inordinate delay in issuing charge memo in the year 2019. The respondent has stated in the counter affidavit that based on the investigation in the criminal case, charge memo was issued. From the counter affidavit, it is seen that the criminal case was registered only in the year 2015, after lapse of 14 years. The respondent, except stating that both the departmental proceedings and criminal proceedings can be proceeded simultaneously, has not explained the delay of 19 years in initiating the departmental proceedings. The judgment in ***P.V.Mahadevan vs. M.D., Tamil Nadu Housing Board*** reported in **2005(4) CTC 403** relied on by the learned counsel for the petitioner, is



squarely applicable to the facts of the present case.

7. In view of the above, the impugned charge memo issued by the respondent, dated 06.05.2019 is quashed. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

The Director of Town Panchayats,
Directorate of Town Panchayats,
Urban Administration Office Building,
7 & 8th Floor, MRC Nagar,
Chennai-28.

+1 CC to M/s.M.P. SENTHIL, Advocate (SR-100137[F] dated 21/11/2019)

+1 CC to M/s.SPL.GP (SR-100583[F] dated 22/11/2019)

W.P. (MD)No.13992 of 2019

20.11.2019

SMA/17/12/19/3P/4C