



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.16807 of 2019

and

W.M.P.(MD)No.13410 of 2019

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M.K.Mohan

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Home, Fort St. George,
Chennai-600 009.

2.The Director General of Police (Law & Order),
Chief Office, Mylapore, Chennai-600 004.

3.The Superintendent of Police
Cum Enquiry Officer,
Dindigul, Dindigul District.

4.The Superintendent of Police,
Tirunelveli, Tirunelveli District.

5.The Superintendent of Police,
Kanyakumari, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned charge memo in proceedings in Tha.Pa.No.59/2019, dated 04.05.2019 (received on 13.05.2019) issued by the third respondent Superintendent of Police, Dindigul District, quash the same.

For Petitioner : Mr.T.Cibi Chakraborty

For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader.

ORDER

The order of the third respondent dated 04.05.2019 is sought to be quashed in the Writ Petition.

2.According to the petitioner, he is working as Deputy Superintendent of Police, District Crime Record Bureau, Kanyakumari and attaining the age of superannuation on 31.12.2019, within 5 months from the date of filing of this Writ Petition and with mala fide intention, the respondents have issued charge memo in the year



2019 for the incident alleged to have happened in the year 2006. The petitioner has raised various grounds in the affidavit filed in support of the Writ Petition to quash the said impugned charge memo.

3.The learned counsel appearing for the petitioner mainly contended that the petitioner was issued with charge memo dated 04.05.2019 for the alleged occurrence of the year 2006. Even before the petitioner was submitted his explanation, the third respondent was appointed as Enquiry Officer, fixing the date of furnishing the documents relied on by the third respondent and the third respondent has fixed enquiry on 03.07.2019 and sent summon to the petitioner through what's app and subsequently, he cancelled the date of hearing and directed the petitioner to appear for hearing on 09.07.2019 at 10.00 a.m. The said summon was served on the petitioner by some Police person on 08.07.2019 at 11.00 p.m. On the same day, the petitioner has received another message through what's app mobile application, stating that oral enquiry has been postponed to 11.07.2019.

4.The petitioner has sent representation dated 08.07.2019 to the third respondent, requesting to grant 15 days time to submit his explanation. The third respondent did not grant time to the petitioner to submit his explanation, but proceeded with the enquiry and posted the enquiry to 30.07.2019, for further proceedings. Challenging the charge memo dated 04.05.2019, the petitioner has come out with the present Writ Petition.

5.The learned Special Government Pleader appearing for the respondents submitted that the Writ Petition is liable to be dismissed, as the petitioner is seeking to quash the charge memo, after participating in the enquiry and putforth his objections.

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

7.From the materials on record, it is seen that on the verge of the retirement of the petitioner, a charge memo dated 04.05.2019, has been issued to him, alleging the misconduct in respect of the incident, that occurred in the year 2006. The respondents have not given any reasons for not initiating disciplinary action against the petitioner, immediately. Further, the enquiry has been ordered even before the petitioner can submit his explanation to the charges levelled against him. The contentions of the learned counsel appearing for the petitioner that the respondents are conducting enquiry in a hurried manner without giving opportunity to the petitioner even to submit his explanation, is considerable force and acceptable. Further, the charge memo has been issued after considerable delay and on the verge of the retirement of the petitioner.



8. For the above reason, the charge memo dated 04.05.2019, issued by the third respondent, is liable to be quashed and is hereby, quashed. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1. The Secretary to Government of Tamil Nadu,
Department of Home, Fort St. George,
Chennai-600 009.
2. The Director General of Police (Law & Order),
Chief Office, Mylapore, Chennai-600 004.
3. The Superintendent of Police
Cum Enquiry Officer,
Dindigul, Dindigul District.
4. The Superintendent of Police,
Tirunelveli, Tirunelveli District.
5. The Superintendent of Police,
Kanyakumari, Kanyakumari District.

+1 CC to M/s.T. CIBICHAKRABORTHY, Advocate (SR-101361[F] dated 26/11/2019)

+1 CC to M/s.SPL GP (SR-101981[F] dated 27/11/2019)

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26.11.2019

VB(18.12.2019) 3P 8C