



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.983 of 2018

and

W.M.P (MD)No.5824 of 2018

and

W.M.P (MD)No.1028 of 2018

K.Murugapandian

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Tirunelveli Range,
I/c Commissioner of Police,
Tirunelveli City,
Tirunelveli.

2.The Deputy Commissioner of Police,
Crime and Traffic,
I/c Law and Order,
Tirunelveli City,
Tirunelveli.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent made in his order in K1/PR.02/2016 dated 29.01.2016 and quash the same as it is without jurisdiction and consequently direct the Respondents to allow the petitioner retire from service and pay all the retirement benefits and other monitory benefits including the arrears of salary from the date of suspension within the period stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.V.Anand,
Government Advocate

ORDER

The petitioner is challenging the charge memo dated 29.01.2016 issued to him and also seeking a consequential direction to the respondents to allow him to retire from service and pay all the retirement and other monetary benefits.

2.According to the petitioner, he attained the age of superannuation on 31.12.2015. The impugned charge memo was issued



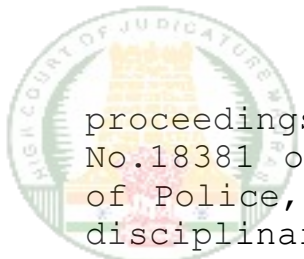
to the petitioner on 29.01.2016, after his date of superannuation i.e., on 31.12.2015 and served on him on 02.02.2016. The second respondent is not having jurisdiction to issue charge memo to the petitioner. The second respondent is subordinate to the first respondent. The first respondent is the Disciplinary Authority and the first respondent alone has power to initiate the disciplinary proceedings. In addition to the above grounds, the petitioner has raised various grounds on merits with regard to validity of charge memo.

3. The respondents filed counter affidavit and denied all the averments. Mr. V.Anand, learned Government Advocate appearing for the respondents contended that the Deputy Commissioner of Police, Crime and Traffic, Tirunelveli City as well as the incharge of the Law and Order, Tirunelveli City, is the competent to issue the charge memo against the petitioner, who is the Special Sub-Inspector of Police. The second respondent as well as the enquiry officer are competent to conduct the disciplinary proceedings against the petitioner.

4. The learned Government Advocate appearing for the respondents further contended that the Domestic Enquiry initiated against the petitioner was concluded on 29.11.2017. The enquiry report was filed on 08.12.2017. The petitioner submitted his further explanation on 20.12.2017. When the order is to be passed on the disciplinary proceedings, the petitioner filed the present writ petition in W.P(MD)No.983 of 2018 and this Court, by order dated 18.01.2018, made in W.M.P(MD)No.1028 of 2018 in W.P.(MD) No.983 of 2018, granted interim stay. Having fully participated in the domestic enquiry, it is not open to the petitioner to challenge the charge memo after conclusion of domestic enquiry and prayed for dismissal of the writ petition.

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

6. The petitioner is challenging the charge memo mainly on two grounds. The first contention of the petitioner is that, the charge memo issued, after he attained the age of superannuation. The second contention of the petitioner is that the second respondent is not the disciplinary authority and the first respondent viz., Deputy Commissioner of Police, Crime and Traffic, Tirunelveli City as well as the incharge of the Law and Order, Tirunelveli City is the authority to initiate the disciplinary proceedings against the petitioner. On the other hand, the petitioner has filed W.P(MD)No.18381 of 2017 for a direction to the first respondent therein to include the second respondent therein as one of the witness in the disciplinary



proceedings in No.K1/PR.02/2016, dated 29.01.2016. In the W.P.(MD) No.18381 of 2017 the petitioner has stated that the Commissioner of Police, Tirunelveli City, the first respondent therein, is the disciplinary authority. From this contradictory statement of the petitioner, it is clear that the petitioner has not stated, who is the disciplinary authority. On the other hand, Mr.V.Anand, learned Government Advocate submitted that the respondents in the counter affidavit, has stated that the Deputy Commissioner of Police, Crime and Traffic, Tirunelveli City, as well as the incharge of the Law and Order, Tirunelveli City, is the competent authority to initiate the disciplinary proceedings against the petitioner. The second respondent in both the writ petitions is the competent authority to initiate disciplinary proceedings and he has jurisdiction to initiate the disciplinary proceedings against the petitioner.

7. In addition to the above contentions, it is seen from the above records that the petitioner has participated in the domestic enquiry and the enquiry was concluded on 29.11.2017. The enquiry officer has submitted his report on 08.12.2017 and further, the petitioner has given explanation on 20.12.2017. The petitioner suppressed the fact of conclusion of domestic enquiry and explanation submitted by him on 20.12.2017, filed the above two writ petitions. The petitioner has not approached the Court with clean hands and approached the Court belatedly when the second respondent is about to pass orders on the disciplinary proceedings after the enquiry.

8. For the above reasons, the present writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Deputy Inspector General of Police,
Tirunelveli Range,
I/c Commissioner of Police,
Tirunelveli City,
Tirunelveli.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Deputy Commissioner of Police,
Crime and Traffic,
I/c Law and Order,
Tirunelveli City,
Tirunelveli.

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-95784[F] dated
04/11/2019)

+1 CC to M/s.SPL GP (SR-96043[F] dated 05/11/2019)

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