

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR. JUSTICE C. SARAVANAN

Writ Petition No. 15998 of 2020

D. Nagaboosanam

.. Petitioner

Versus

1. The Disciplinary Authority for
Chief Judicial Magistrate
Vellore

2. The Judicial Magistrate
Arakkonam
Vellore District
now Ranipet District

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari calling for the records of the second respondent in its proceedings Dis.No.528/2020 dated 26.02.2020 and the consequential order in Dis.No.968/2020 dated 12.08.2020 and the charge memo in Dis.No.839/2020 dated 03.06.2020 and quash the same.

For appellant

: Mr. G. Jeremiah

ORDER

(Order of the Court was made by R. SUBBIAH, J)

The petitioner herein was appointed as Masalchi in the Judicial Ministerial service and posted in the District Munsif Court, Ambur. He was subsequently promoted to the post of Record Clerk. After successive transfer, the petitioner was serving in the Court of Judicial Magistrate, Arakkonam. While so, on 26.02.2020, the second respondent issued an order of suspension under Rule 17 (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, suspending the petitioner from service for having unauthorisedly taken leave from 17.02.2020. Subsequent to the order of suspension dated 26.02.2020, a charge memo dated 03.06.2020 was issued to the petitioner containing two charges. The first charge related to the unauthorised absence of the petitioner from duty between July 2019 to February 2020 on various dates and the second charge relates to careless and negligent discharge of duties which had

the effect of causing administrative disturbance. By a subsequent proceeding dated 12.08.2020, the second respondent directed that the order of suspension of the petitioner shall continue until the conclusion of the disciplinary proceedings against him. Aggrieved by the aforesaid orders, the petitioner is before this Court with this writ petition.

2. The learned counsel for the petitioner would invite the attention of this Court to order of suspension dated 26.02.2020 and contends that the order of suspension, if read as a whole, gives the impression that it was issued with the pre-conceived mindset to impose major punishment to the petitioner and therefore it is bad in law. The charges do not relate to dishonest motive or allegations relating to personal gain. The charges relate to mere dereliction of duty and they are attributable to multiple assignments given to the petitioner due to shortage of staff in the Court. It is also stated that the petitioner was compelled to take leave owing to his ill health and therefore, the charge memo issued to the petitioner causes serious prejudice and hardship to the petitioner. Therefore, the learned counsel would pray for allowing the writ petition by setting aside the order of suspension as well as the charge memo issued to the petitioner.

3. We have heard the counsel for the petitioner and perused the records. It is evident that the order of suspension dated 26.02.2020 has been passed due to the reason that the petitioner had unauthorisedly absented himself from attending his duties from 17.02.2020. Even in the order of suspension, the second respondent referred to the earlier memos given to the petitioner on various dates relating to his unauthorised absence. Even in the order of suspension dated 26.02.2020, reference was made to the frequent leave taken by the petitioner, which had greatly affected the administrative work. Therefore, it is not as if the petitioner was vindictively harassed for no fault of him. The second respondent, as a disciplinary authority, has chosen to suspend the petitioner in public interest and in the larger interest of the administration of the Court. Therefore, the order of suspension as well as the charge memo issued to the petitioner cannot be interfered by us in exercise of power conferred under Article 226 of The Constitution of India. A charge memo can be interfered with only if it was passed by an authority, who is not competent to issue the same. In the present case, such a situation does not exist.

4. It is seen from the records produced by the respondent that the Chief Judicial Magistrate, Vellore, has appointed the Judicial Magistrate, Katpadi as an enquiry officer and the Head Clerk attached to the Court of Judicial Magistrate, Katpadi was appointed as Presenting Officer to conduct disciplinary proceedings against the petitioner by proceedings dated 07.10.2020. It is also seen from the records produced before

us that the petitioner's suspension has also been revoked and he was directed to join duty. Accordingly, the petitioner also joined duty on 24.11.2020. After the petitioner joined duty, he was deputed to act as Record Clerk in the Court of Special Judicial Magistrate (Sandalwood Cases) Thirupathur as per the proceedings dated 30.11.2020 of the Chief Judicial Magistrate, Vellore. Therefore, the order of suspension dated 26.02.2020, which is impugned in this writ petition, no longer survives for consideration. In any event, an Enquiry Officer as well as Presenting Officer were appointed to conduct enquiry against the petitioner. It is for the petitioner to attend the disciplinary enquiry, prove his innocence or justify his taking of leave on various dates to the satisfaction of the Enquiry Officer. In such view of the matter, we decline to interfere with the orders, which are impugned in this writ petition.

5. In the result, the writ petition fails and it is hereby dismissed. No costs. Consequently, connected WMP Nos. 19907 and 19908 of 2020 are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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1. The Disciplinary Authority For,
The Chief Judicial Magistrate
Vellore

2. The Judicial Magistrate
Arakkonam, Vellore District
now Ranipet District

3. The Judicial Magistrate,
Katpadi.

4. The Section Officer,
Legal Cell High Court,
Madras-104.

WP No. 15998 of 2020

MG(CO)
CB(11/02/2021)
CB(24/02/2021)