

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.27403 of 2017
and W.M.P.No.1138 of 2020

1 C. Manickam
S/o. P.K. Chinnasamy,
No.3/433-B 16th Street,
Venkateswara Nagar, Kottivakkam,
Chennai 41. Petitioner

Vs.

1 The Principal Secretary to Govt.,
Home (Pol-1A) Department,
Fort St. George, Chennai 09.
2 The Director General of Police,
Mylapore Chennai - 4. ... Respondents

Prayer: 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 of the 1st respondent in connection with the impugned charge memo issued by him in G.O.(2D).No.317 Home (Pol.1A) Department dated 16.07.2013 and to quash the same and further direct the respondents to permit the petitioner to allow to retire from service with all consequential benefits. सत्यमेव जयते

For Petitioner : Mr.S.Silambannan
Senior Counsel for
S.Sivakumar
For Respondents : Mr.J.Ramesh, A.G.P.

O R D E R

Writ petitioner entered into service as Sub Inspector of Police in the respondent department on 1.11.1973, and promoted to higher posts and finally, he was promoted as Additional Superintendent Police, State Human Rights Commission, Chennai during the year 2006. Consequent to the death of one Subramaniam, remand prisoner on 4.4.2004 at Government hospital, Royapettah, departmental action was initiated against the writ petitioner Karuppannan, Jailor and C.Radhan, Sub Jailor vide G.O.Ms.No.1821 Public (L&O-E) dated 28.11.2007 and Charge Memo in P.R.No.52 of 2008 issued by the Government under Rule 17 (b) of Tamilnadu Civil Services (D & A) Rules and the same was served to the petitioner on 17.3.2008, stating that the writ petitioner and two other delinquent officers viz., Karuppannan and C.Radhan who are cause for the custodial death of the deceased Subramaniam (remand prisoner). Thereafter, on the directions of the Government, P.A. to the District Collector has conducted a detailed enquiry and submitted a report wherein he recorded a finding based on the opinion of the Medical Officer that the deceased would have appeared to have died on heart failure due to Coronary artery disease (natural cause), the death is not due to the injuries sustained by the deceased person, police personnel and jail officials are not cause for the death of the deceased and the same was forwarded to the Additional Director General of Police. The Additional Director General of Police while accepting the inquiry report that the aforesaid delinquent officers were not reason for the death of the deceased Subramaniam, the death is natural death caused due to heart failure (Coronary artery disease), recommended to drop the disciplinary proceedings against Karuppannan, Jailor and C.Radhan, Sub Jailor. Accepting the recommendations made by the Additional Director General of Police, Government dropped further action in the said departmental action vide G.O.Ms.No.623 Home (Pol.1A) Department, dated 24.8.2015. Further, by order, dated 30.6.2014 in CrI.M.P.NO.4128 of 2014, the Chief Metropolitan Magistrate, Egmore, Chennai after analyzing the materials on record, recorded a finding that no prima facie material available against the accused persons, there is no list of witnesses, there is no documents produced for perusal and in the said circumstances, there is no sufficient ground for further proceedings and dismissed the complaint. Thereafter, the first respondent by letter No.1283/L&O-E/2013-15, dated 29.4.2015 has stated that the Government decided to drop further action in criminal prosecution against the concerned erring personnel as mentioned in G.O.Ms.No.1821, dated 28.11.2007. Further, the Government

issued G.O.Ms. No.623, dated 24.8.2015, by stating that the Government after carefully and independently examining the report submitted by the Additional Director General of Police, Inspector General of Prison and the order passed by the Chief Metropolitan Magistrate, Egmore, Chennai, decided to drop further action on the disciplinary proceedings initiated under Rule 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules against V.Karuppannan, Superintendent of Prisons.

2. The learned Senior counsel appearing for the petitioner submitted that based on the inquiry report submitted by the P.A. to the District Collector and the order passed by the Chief Metropolitan Magistrate, Egmore, Chennai, the Government decided to drop action against one Karuppannan, who is also one of the delinquent officer in the aforesaid charges framed against the petitioner. Further, disciplinary proceedings also dropped against another delinquent officer C.Radhan, Sub Jailor. The death of Subramaniam was caused under the custody of the aforesaid two delinquent officers, the writ petitioner has nothing to do with the control over the death of the deceased Subramaniam. At the time of occurrence, the writ petitioner was posted as Additional Superintendent of Police, State Human Rights Commission, Chennai. Therefore, the writ petitioner was falsely implicated in the aforesaid charges. Hence, the impugned charge memo is liable to be quashed.

3. The learned Additional Government Pleader appearing for the respondents has not refuted the aforesaid facts. He further submitted that the deceased Subramaniam is brother in law of the petitioner and therefore, charges framed against the writ petitioner. The said charges have been independently inquired into by the inquiry officer. Based on the report of the inquiry officer, if any case is made out, further proceedings can be proceeded against the petitioner. Therefore, there is no warrant to interfere with the impugned charge memo.

4. Heard the learned Senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

5. Firstly, the facts narrated by the writ petitioner that in the charges framed against the petitioner, one Karupannan Jailor and C.Radhan, Sub Jailor have involved in the custodial death of the deceased Subramaniam on 4.4.2004. Preliminary inquiry was conducted by the Personal Assistant to the District Collector, who based on the medical opinion submitted by the Medical officer, that the death caused to the deceased

Subramaniam is a natural death due to heart failure (Coronary artery disease) forwarded a report to the Additional Director General of Police. The Additional Director General of Police had independently considered the case of the Karupannan, recorded his opinion that no purpose would be served in the disciplinary proceedings against Karupannan and C.Radhan and therefore, recommended to drop the proceedings initiated against them under Rule 17(b) of the Tamilnadu Civil Services (Discipline & Appeal) Rules. Pursuant to the said recommendation made by the Addl. Director General of Police, the Government issued G.O.Ms. No.623, dated 24.8.2015, dropping the disciplinary proceedings initiated against Karupannan and also against C.Radhan, Sub Jailor from the charges that the deceased Subramaniam (remand prisoner) died under their custody. The Government accepted the inquiry report and the reason for the cause of death is clearly indicated in the Medical officer's report, i.e. death is caused only due to natural cause and dropped the disciplinary proceedings initiated against the delinquent officers by the Government.

6. Further, another ground raised by the petitioner is that there is inordinate delay in framing charges. According to the petitioner, the date of occurrence is 4.4.2004. Originally, charge framed against the petitioner on 17.3.2008 and subsequently, cancelled and thereafter fresh Charge memo has been issued against the petitioner on 16.7.2013. According to the petitioner, there is inordinate delay in framing charges. There is no explanation by the authorities for the delay in framing charges against the petitioner. Therefore, charges framed against the petitioner is wholly illegal and the same is liable to be quashed.

7. Considering the ground raised by the petitioner, this Court is of the view that the impugned charges framed against the petitioner is unsustainable in law and the same is liable to be quashed.

8. In fine, the impugned charge memo is quashed. The writ petition is allowed to that extent. No costs. It is open to the petitioner to seek terminal benefits before the authorities concerned by making representation. Connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vaan

To

1 The Principal Secretary to Govt.,
Home (Pol-1A) Department, Fort St. George,
Chennai 09.

2 The Director General of Police,
Mylapore Chennai - 4.

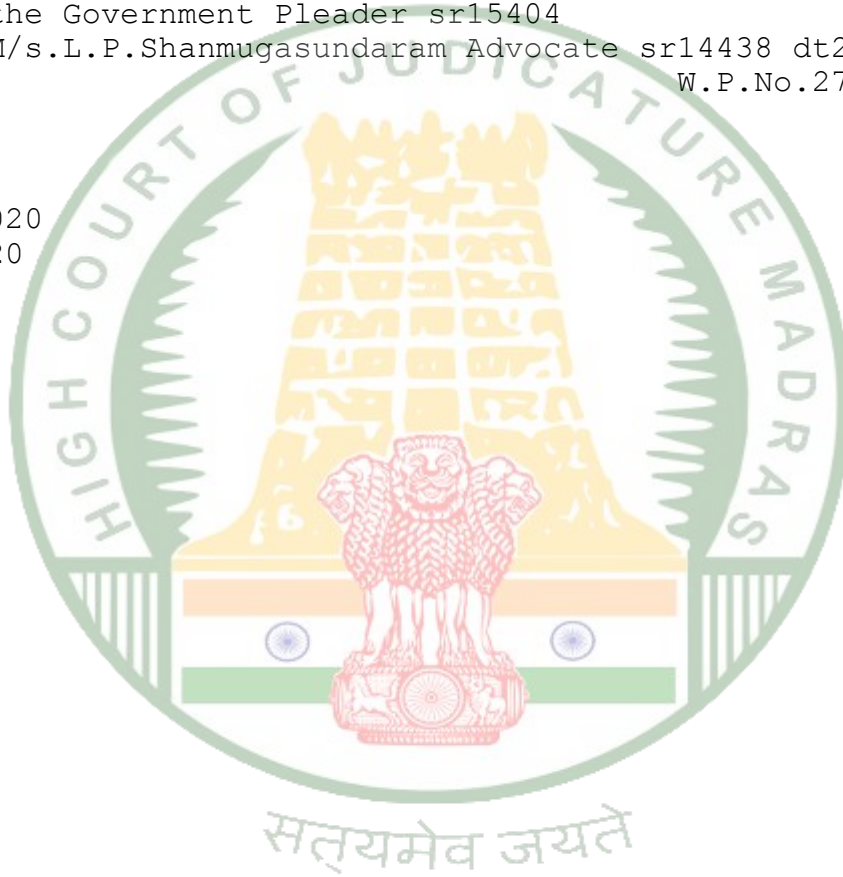
3. The Public Prosecutor High Court
Madras-104

+1 cc to Mr.S.Sivakumar Advocate sr14474

+1 cc to the Government Pleader sr15404

+1 cc to M/s.L.P.Shanmugasundaram Advocate sr14438 dt24/07/2020
W.P.No.27403 of 2017

aa11/03/2020
a24/07/2020



WEB COPY