

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.NO.35444 of 2019

and

WMP No.36274 of 2019

G.V. Kumar

... Petitioner

-Vs-

The District Collector
Master Plan Complex NH 205
Chennai - Tiruttani Highway
Thiruvallur 602 001

.... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ of Certiorarified Mandamus calling for the records of charge memo in respect of this order R.C.No.21261/2009/A3 dated 28.08.2009, issued by the respondent to quash the same and consequently direct to allow the petitioner to retire from service.

For Petitioner : Mr. G. Ravikumar

For Respondents: Mr. P.S.Siva Shanmugasundaram
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the charge memo issued on the petitioner by the proceedings of the respondent dated 28.08.2009 and consequently to permit the petitioner to retire from service and to pay him with all the attendant benefits.

2. The case of the petitioner is that he was working as a Special Tahsildar in the Land Acquisition Department, Poonamallee. During his tenure, an Assistant named Raniammal is said to have mis-appropriated certain amounts by misusing the Demand Drafts that were kept in the office and thereby, a total sum to the tune of Rs.1,62,49,624/- is said to have been misappropriated.

3. A charge memo was served on the petitioner on 28.08.2009 and the petitioner was also not allowed to retire from service. Since no final decision has taken place in the Departmental proceedings for the last 10 years, the present Writ Petition has

been filed before this Court mainly on the ground that the charge memo is no more sustainable on the ground of inordinate delay in completing the disciplinary proceedings.

4. The learned counsel for the petitioner submitted that the petitioner was transferred to Poonamallee Land Acquisition Office from Ponneri as a Special Tahsildar only on 10.01.2009 and he was not aware about the state of affairs that were prevailing in the office. The learned counsel further submitted that the time barred Demand Drafts were kept inside the cupboard and the keys were with the Assistant and she has proceeded to misuse those Demand Drafts and has mis-appropriated the amounts and this act on the part of the Assistant should not be attributed against the petitioner since he is no way involved in the misappropriation. The petitioner has been kept under suspension for the last 10 years only on the ground of dereliction of duty and the disciplinary proceedings has also not been concluded and therefore, the charge memo has to be quashed by this Court.

5. The respondent has filed a counter affidavit in this case. The counter affidavit has elaborately dealt with the facts leading to the issuance of charge memo against the petitioner. At Paragraph No.23 of the counter affidavit, it has been stated that since the criminal case is pending in the Court, orders are awaited and therefore, the disciplinary proceedings are being kept pending finalisation.

6. Mr. P.S. Siva Shanmugasundaram, learned Special Government Pleader appearing on behalf of the respondent submitted that the enquiry has been completed and only the final orders are required to be passed and the same was kept pending on the ground that the criminal case against Raniammal is yet to be disposed of.

7. In the considered view of this Court, the petitioner cannot be kept under suspension endlessly waiting for the completion of the Criminal case against Raniammal. Admittedly the petitioner is not an accused in the criminal case and therefore, the criminal case has absolutely no bearing insofar as the petitioner is concerned. The main charge against the petitioner is on the ground of dereliction of duty and that has to be independently dealt with in the disciplinary proceedings. Now a stand has been taken to the effect that the enquiry has been completed and therefore, this Court deems it fit to fix a time limit for the completion of the disciplinary proceedings

and for passing final orders. By doing so, the petitioner will atleast know where he stands and the agony can come to an end. In order to ensure that final orders are passed within the time fixed by this Court, this Court is also going to further state that if the final orders are not passed within the time fixed by this Court, the charge memo itself will lapse and consequently, the petitioner will be entitled for all attendant benefits. This is done taking into consideration the fact that the charge memo has been pending for more than 10 years.

8. In view of the above discussion, this Writ Petition is disposed of with a direction to the respondent to pass the final orders in the departmental proceedings initiated against the petitioner within a period of 6 weeks from the date of receipt of a copy of this order. It is made clear that if no orders are passed within the time fixed by this Court, the charge memo issued against the petitioner on 28.08.2009 shall stand lapsed and thereafter, the petitioner will be entitled for all attendant benefits.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

bga
To

The District Collector
Master Plan Complex NH 205
Chennai - Tiruttani Highway
Thiruvallur 602 001

+1 CC to Govt. Pleader sr 10411.
+1 CC to Mr.G.Ravi Kumar, Advocate sr 9323.

W.P.NO.35444 of 2019

SSI (CO)
SP(12/02/2020)