



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.07.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.7837 of 2020

and

W.M.P(MD)No.7316 & 7318 of 2020

WEB COPY

K.Parameshwaran

...Petitioner

-Vs-

1.The Superintendent of Police,
Trichy District.

2.The Deputy Superintendent of Police.
Armed Force,
Trichy District.

3.The Inspector of Police,
Jeeyapuram Police Station,
Trichy District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in Tha.Pa.No.50/H2/2020, dated 21.04.2020 and quash the same and consequently direct the second respondent not to conduct any enquiry against the petitioner in connection with the charge memo in Tha.Pa.No.50/H2/2020 dated 21.04.2020.

For Petitioner : Mr.G.R.Satish

For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

ORDER

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in Tha.Pa.No.50/H2/2020, dated 21.04.2020 and quash the same and consequently direct the second respondent not to conduct any enquiry against the petitioner in connection with the charge memo in Tha.Pa.No.50/H2/2020 dated 21.04.2020.

2.Heard Mr.G.R.Satish, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents.

3.With the consent of both sides, this writ petition is

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disposed of at the admission stage itself.

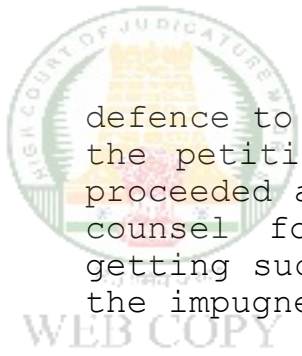
4. The petitioner was working as a Grade I Police Constable, while so, against him, a disciplinary proceedings has been initiated by the respondents and in this regard, the impugned charge memo dated 21.04.2020 has been issued, where the petitioner was directed to give his explanation to the impugned charge-memo within 15 days. However, according to the learned counsel for the petitioner that the said charge-memo, dated 21.04.2020 has only been served on the petitioner on 14.05.2020 and therefore, if at all 15 days time has to be reckoned with, it shall be reckoned with only from the date on which he received the same and accordingly, it will be over by only on 29.05.2020, however, even before the 15 days time is over, pursuant to the proceedings issued by the first respondent, dated 27.05.2020 the second respondent has issued communication on 23.06.2020 directing the petitioner to appear for personal enquiry on 25.06.2020 at 10.00 a.m. Therefore, according to the learned counsel for the petitioner, the present communication, dated 23.06.2020 is based on the earlier proceedings of the first respondent dated 27.05.2020 compelling the petitioner to come for enquiry without having exhausting the 15 days notice period as has been provided under the impugned charge-memo. Therefore, the said charge-memo, dated 21.04.2020 cannot be proceeded further, accordingly, the said charge-memo is under challenge.

5. However, the learned Government Advocate appearing for the respondents would submit that, if at all the impugned charge-memo was served only on 14.05.2020 to the petitioner, he could have sent a reply immediately, but, admittedly even till date, he has not chosen to give any reply, that itself shows that the petitioner has not given suitable reply or defence against the impugned charge-memo, therefore, there can be no impediment for the respondents to proceed against the petitioner, pursuant to the impugned charge-memo by way of enquiry.

6. In this regard, the reply submission of the learned counsel for the petitioner is that, the petitioner has been continuously in COVID-19 Pandobasdu duty and therefore, he could not immediately concentrate on the impugned charge-memo and therefore, within 15 days from 14.05.2020 he could not sent a reply and in the meanwhile, the communication has been received for appearing before the second respondent for enquiry, hence, the petitioner has rushed to this Court seeking indulgence against the impugned charge-memo.

7. I have considered the said submissions made by both sides and perused the materials placed before this Court.

8. Though, the charge-memo, dated 21.04.2020 is under challenge, from the line of the arguments advanced by the learned counsel for the petitioner, it can be taken as if that the



defence to be submitted by the petitioner was not made available to the petitioner, as before 15 days time is over since it has been proceeded against the petitioner for conducting enquiry, the learned counsel for the petitioner seeks indulgence of this Court for getting such an opportunity to give valid defence by way of reply to the impugned charge-memo.

9. As has been pointed out by the learned counsel for the petitioner that if at all the charge-memo was served only on 14.05.2020 definitely he would have the 15 days time till 29.05.2020 and it seems that the first respondent on 27.05.2020 itself issued the proceedings directing the second respondent to go ahead with the enquiry, therefore from the available record it is clear that, without awaiting for the 15 days time to exhaust, since the respondent proceeded to go for enquiry within the 15 days time, opportunity of giving a reply -cum-defence by the petitioner seems to have been not permitted to be exhausted by the petitioner. Therefore, in view of the same, this Court is inclined to dispose of this writ petition with the following directions:-

"i) that the petitioner shall be given 15 days time from the date of receipt of a copy of this order to give his reply-cum-defence to the impugned charge-memo, dated 21.04.2020 and it is made clear that the said 15 days time shall not at any point or any ground be extended further.

ii) the respondent on receipt of such reply-cum-defence from the petitioner, after having considered the same, can take a decision as to whether the disciplinary proceedings can further go on, or not, and accordingly, they can take a decision and complete the disciplinary proceedings, if they desire to do so, in the manner known to law, as early as possible."

10. With this directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1. The Superintendent of Police,
Trichy District.

2. The Deputy Superintendent of Police.
Armed Force,
Trichy District.

3. The Inspector of Police,
Jeeyapuram Police Station,
Trichy District.

Order made in
W.P. (MD) No. 7837 of 2020

Dated:
22.07.2020

AP (31.07.2020) 4P-4C