



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WP(MD)No.20783 of 2015

and

M.P(MD).Nos.1 & 2 of 2015

M.Subramanian

... Petitioner

vs.

The District Collector
Virudhunagar
Virudhunagar District

... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records passed by the respondent herein in Na.Ka.R1/8829-2/2015 dated 13.08.2015 and quash the same.

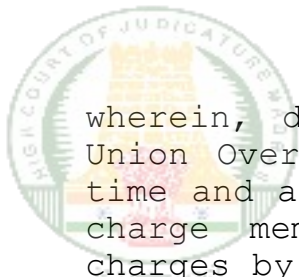
For Petitioner : Ms.M.Padmavathy
For Respondent : Mr.S.Dhayalan
Government Advocate

O R D E R

This Writ petition has been filed by the petitioner to challenge the charge memo, dated 13.08.2015 issued by the District Collector, Virudhunagar District.

2. The case of the petitioner is that he was appointed as Rural Welfare Officer Grade-II in the year 1987. Subsequently, he was promoted as Assistant and then as Deputy Block Development Officer in the year 2003 and now, he is working in Virudhunagar District as Deputy Block Development Officer. In this circumstance, the petitioner was served with charge memo passed by the respondent in Na.Ka.R1/8829-2/2105 dated 13.08.2015 for an allegation relating to construction of Group House during the year 2011-2012 when he was working as Deputy Block Development Officer (Adi Dravida) in Kariyapatti Panchayat Union.

3.The learned counsel for the petitioner would submit that the Government had issued two orders in G.O.Ms.Nos. 581 and 582 Rural Development and Panchayat Raj (E2) Department dated 29.12.2014



wherein, dropping the charges against the Block Engineer and the Union Overseer respectively for the same set of facts. This Court time and again held that the delinquencies who are issued with same charge memos cannot be treated differently after dropping the charges by the Government. Therefore, the very initiation of charge memo against the petitioner is discriminatory. The allegation against the petitioner is that he had recommended one Senthamarai, S/o.Polaiah as a beneficiary in the IAY (Indira Aawaz Yojana Scheme). The learned counsel for the petitioner would further submit that the selection of beneficiary is not in the hands of the petitioner and it is only the Grama Sabha to select the beneficiary. The petitioner is only the Deputy Block Development Officer (Adi Dravida Welfare) and he is bound to scrutinize the genuineness of the enclosed documents and to verify whether the beneficiary was owning any concrete or tiled house or any other thatched mud wall house. The specific contention of the petitioner is that the Block Engineer and the Union Overseer are responsible for inspecting the property and marking the site for construction. The grievance of the petitioner is that he is only proceeded departmentally, but the Block Engineer and the Union Overseer have not been issued any charges by the respondent.

4.The learned counsel for the petitioner further submitted that after filing of the Writ petition, the then Block Development Officer, Kariyapatti, promoted further as Assistant Project Officer (Housing and Welfare) was also issued with a charge memo, dated 02.03.2016 by the Director, Rural Development and Panchayat Raj Department under the Tamil Nadu Pension Rules, 1978, who was earlier allowed to retire from service on 30.04.2013. The grievance of the petitioner is that the charge memo was issued to the petitioner after a delay of four years from the date of allegation, only with an intention to deny his promotion which is due to him in the next future of the panel year 2016. Aggrieved against the impugned charge memo, the petitioner is before this Court.

5. Learned Government Advocate appearing for the respondent would state that the investigating authority of the Government conducted an investigation against the petitioner for the allegation that when he was formerly working as Deputy Block Development Officer during 2011-2012, he has made a false recommendation for the construction of house under IAY Scheme for Thiru.P.Senthamarai for the land belonging to Tmt.Mallika, W/o.Thiru.P.Senthamarai and therefore, the investigating authority has recommended for initiation of departmental disciplinary action against the petitioner. The Government, after carefully analysing the investigation report, has accepted the recommendation of the investigating authority and had permitted the Director of Rural Development and Panchayat Raj, Chennai, to initiate departmental disciplinary proceedings against the petitioner. But, instead of



facing the charges, the petitioner has filed this Writ petition and therefore, he would pray for dismissal of the Writ petition.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent.

7. There is no explanation in the counter as to why there is a delay of 4 years in initiation of the charges against the petitioner and also there is no explanation as to why the charges had been dropped against the Block Engineer and the Union Overseer who are responsible for inspecting the property and marking the site for construction. Therefore, in my considered opinion, after the dropping of the charges by the Government against the Block Engineer and the Union Overseer by G.O.Ms.Nos. 581 and 582, Rural Development and Panchayat Raj Department, dated 20.11.2012 and 29.12.2014 respectively, the initiation of the charges against the petitioner after a period of 4 years when the petitioner is due for promotion, is erroneous and it will cause serious prejudice. It is also brought to the notice of this Court that the then Block Development Officer, Kariyapatti, who was promoted further as Assistant Project Officer (Housing and Welfare) was issued with a charge memo dated 02.03.2016 by the Director, Rural Development and Panchayat Raj Department, under the Pension Rules. Under Rule 9(A) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, where more than one Government servant is involved, the authority competent to institute disciplinary proceedings and impose any of the penalties specified in Rule 8 shall be the authority in that department in respect of the Government servant who holds the highest post and the disciplinary proceedings against all of them shall be taken together. Therefore, the authority to initiate departmental proceedings is only the Government and the very initiation of the charge memo by the respondent is without jurisdiction. Therefore, I am inclined to interfere with the charge memo.

8. Accordingly, the charge memo passed in Na.Ka.R1/8829-2/2015, dated 13.08.2015 is set aside and this Writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2020

Sub Assistant Registrar (CS)



The District Collector
Virudhunagar
Virudhunagar District

+1 CC to M/s.SPL.GP (SR-4769[F] dated 05/02/2020)

+1 CC to M/s.M.PADMAVATHI, Advocate (SR-4823[F] dated 05/02/2020)

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KK/06.03.2020/4P-4C

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