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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNA KUMAR

W.P.NO.11194 OF 2013

AND

M.P.NO.2 OF 2013

R.Muthusamy

... Petitioner

.Vs.

1. The State of Tamil Nadu
Rep. By its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.

2. The Assistant Director of Survey,
District Survey Office,
Coimbatore - 18.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the impugned charge memo dated 29.10.2012 Ref. Na.Ka.No.A8/1905 of 2012 passed by the second respondent and quash the same and consequently direct the respondent authorities to grant all retirement and pensionary benefits to the petitioner.

For petitioner : Mrs.Inthu Karunakaran

For respondents : Mr.T.Sampath Kumar
Government Advocate

O R D E R

This writ petition has been filed by the petitioner seeking issuance of a writ of certiorarified mandamus to quash the impugned charge memo dated 29.10.2012 bearing reference Na.Ka.No.A8/1905 of 2012 issued by the second respondent and



consequently direct the respondents to grant all retirement and pensionary benefits to the petitioner.

2. The petitioner while working as a Sub Inspector of Survey South, Town Survey Section, Coimbatore Corporation, Coimbatore, a complaint dated 30.10.2001 was filed against him alleging that he has received illegal gratification of Rs.500/- for granting town survey sketch in respect of a site in Survey No.417/2A at Anuparpalayam Village. Based on the said complaint, a case was registered in C.C.No.7 of 2002 on the file of Special Judge-cum-Chief Judicial Magistrate, Coimbatore under Sections 7 and 13(2) r/w Section 13(1) of the Prevention of Corruption Act. After trial, the learned Special Judge-cum-Chief Judicial Magistrate, Coimbatore, in C.C.No.7 of 2002, convicted the petitioner under Sections 7 and 13(2) r/w Section 13(1) of the Prevention of Corruption Act and imposed a fine of Rs.1000/-. Challenging the aforesaid order, the petitioner has filed an appeal before this Court in Crl.A.No.328 of 2004 and this Court has set aside the order of the Chief Judicial Magistrate by judgment dated 07.10.2010.

3. Subsequently, the second respondent has issued a charge memo dated 14.05.2012 under Section 17-B of Tamil Nadu Subordinate Service (Discipline & Appeal) Rules and the petitioner has appeared before the Enquiry Officer and submitted his explanation, but no final order has been passed by the second respondent in the said charge memo dated 14.05.2012. In the meantime, the second respondent has issued a fresh charge memo for the same set of charges. When no final order has been passed in the challenge made by the petitioner against charge memo dated 14.05.2012, a fresh charge memo issued by the second respondent for the same set of charges under Section 17-B of Tamil Nadu Subordinate Service (Discipline & Appeal) Rules against the petitioner is liable to be set aside.

4. Mr.T.Sampath Kumar, learned Government Advocate appearing on behalf of the respondent would submit that since additional charges have been framed based on the advice from senior officials, fresh charge memo has been issued and hence, the present writ petition is liable to be dismissed.

5. On perusal of the impugned charge memo dated 29.10.2012, it appears that the charges framed are the same as that of the earlier charge memo dated 14.05.2012. Therefore, the impugned charge memo has been issued to the petitioner for the same set of charges, which has already been framed as against the petitioner under Section 17-B of Tamil Nadu Subordinate Service (Discipline & Appeal) Rules in earlier charge memo dated 14.05.2012, which is unacceptable.



6. Therefore, this Court has no hesitation to interfere with the impugned charge memo dated 29.10.2012 and the same is liable to be quashed. It is open to the respondents to proceed with the charge memo dated 14.05.2012 in accordance with law.

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7. With the above observations, this writ petition stands allowed and the impugned charge memo dated 29.10.2012 is quashed. It is for the petitioner to seek for the retirement benefits as per law. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The Assistant Director of Survey,
District Survey Office,
Coimbatore - 18.

+2ccs to Mrs.Inthu Karunakaran, Advocate, S.R.No.66065
+1cc to the Government Pleader, S.R.No.66221

W.P.NO.11194 OF 2013 AND
M.P.NO.2 OF 2013

BR(CO)
PBS/19/01/2022