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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.27053 OF 2009

AND

M.P.NO.1 OF 2009

J.D.Muthu

...Petitioner

Vs.

- 1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
(Revenue Department),
Secretariat, Chennai 600 009.
- 2.The Chairman,
National Commission for Scheduled Cases,
Lognayak Bhavan, New Delhi.
- 3.The District Collector,
Tiruvallur District, Tiruvallur.
- 4.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-34.
- 5.The Enquiry Officer/Revenue Divisional Officer,
Tiruttani,
Thiruvallur District.

...Respondents

Prayer : Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records made in impugned charge memo 12563/12355/2006/A3 dated 22.09.2006 passed by the third respondent , quash the same and further direct the respondents to allow the petitioner to retire peacefully on 31.01.2010 from service and pass orders.

For petitioner	:	Mr.P.Srinivasan
For respondents	:	Mr.T.Arunkumar, Addl.Govt.Pleader for R1, R3 and R5. Mr.R.Bharathkumar for R4. No appearance for R2



ORDER

This writ petition has been filed seeking Writ of Certiorarified Mandamus to quash the impugned charge memo dated 22.09.2006 passed by the third respondent and further direct the respondents to allow the petitioner to retire peacefully on 31.01.2010 from service and pass orders.

2. The case of the petitioner in brief:

While the writ petitioner was working as Special Tahsildar in Tamilnadu Housing Board Schemes, Nandanam, Chennai-35, he took leave under medical advise from 18.04.2006 to 16.05.2006. He joined duty on 17.05.2006, on which date, he was informed by the fourth respondent that, the third respondent, vide proceedings dated 20.04.2006, kept the petitioner under suspension, citing that he was appointed as Liason Officer to the Election Observer for Thiruvottiur Assembly Constituency, but, he failed to attend the election duty meeting on 12.04.2006. The contention of the petitioner is that, he was never either served any copy of the appointment letter, or informed about the meeting to be held on 12.04.2006.

2.1. The third respondent, without issuing any show cause notice to the petitioner, suspended him, which is violation of Article 14, 15 of Constitution of India. Hence, the petitioner filed W.P.No.15886/2006 before this court, and vide order of this court dated 09.02.2007, the suspension was set aside. However, it was directed to complete the departmental enquiry within a period of two months from the date of receipt of that order.

2.2. One Mr.Jagadeesan, RDO, Tiruttani was appointed as Enquiry Officer and the petitioner had appeared before him. The petitioner also filed his written statement, denying the charges, stating that he was neither served the copy of any such order of appointment as Liason Officer, nor received any communication to attend election meeting to be held on 12.04.2006. The enquiry officer submitted his report. Thereafter, the impugned charge memo was issued against the petitioner. Challenging the same, this writ petition has been filed.

3. The contentions of the counter the affidavit filed by the respondents in brief:

The petitioner was appointed as Liason Officer to the observer for Thiruvottiur Assembly Constituency by the proceedings dated 11.04.2006. The order was properly communicated to him on 11.04.2006 itself and he was instructed to attend the meeting on 12.04.2006. It was also informed over phone to his subordinate. However, he had not attended the



meeting on 12.04.2006. The absence of petitioner was amounted to dereliction of duty and the attitude of the petitioner in neglecting the election work amounted to indiscipline and attracts severe action. Hence, he was placed under suspension by order dated 20.04.2006. Thereafter, vide order of this court dated 09.02.2007 passed in W.P.No.15886/2006, suspension order was revoked. Thereafter, enquiry officer was appointed and enquiry was conducted by following the principle of natural justice and enquiry report was also filed. The petitioner was allowed to retire on 31.01.2010, without prejudice to the disciplinary proceedings, pending against him.

4. The learned Government Advocate appearing for the respondents submitted that the petitioner has given a letter to the respondents on 18.11.2021, seeking permission to cross examine one Tmt.Kanchana Devi, Assistant, working in Thiruvallur Revenue Unit, as a defence witness in the disciplinary enquiry, in connection with the disciplinary action, proceeded against him. The above letter dated 18.11.2021 has been placed before this court.

5. It is clear that charges have been framed against the petitioner and challenging the same this writ petition has been filed. However, no final order has been passed.

6. The learned Government Advocate submitted that, the disciplinary proceedings will be completed by the authorities concerned, within a stipulated time, as fixed by this court.

7. The impugned charge has been framed against the petitioner under 17(b) of the Tamil Nadu Civil Service (D & A) Rules on 22.09.2006 itself. The writ petition is of the year 2009. Considering all the above facts and also taking into account the letter submitted by the petitioner dated 18.11.2021, this court is inclined to pass orders.

8. Accordingly,

i) The respondents are directed to complete the enquiry proceedings, by taking into consideration of the request of the petitioner dated 18.11.2021 and pass appropriate orders, within two weeks from the date of receipt of a copy of this order.

ii) Thereafter, the respondents are directed to proceed further enquiry, in accordance with law and pass final orders, within twelve weeks.

iii) It is open to the petitioner to raise all the objections before the disciplinary authority by pointing out the inordinate delay in concluding the disciplinary proceedings.



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9. With the above observations, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

mst

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
(Revenue Department),
Secretariat, Chennai 600 009.
- 2.The Chairman,
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- 3.The District Collector,
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- 4.The Managing Director,
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Nandanam, Chennai-34.
- 5.The Enquiry Officer/Revenue Divisional Officer,
Tiruttani, Thiruvallur District.

+1cc to Mr.P.Srinivasan, Advocate SR.No.63139

+1cc to M/s.R.Bharath Kumar, Advocate SR.No.63683

+1cc to the Government Pleader SR.No.63797

W.P.No.27053 of 2009

SV(CO)
RVM(03/01/2022)