



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

AND

THE HONOURABLE MRS. JUSTICE **S. ANANTHI**

W.A. (MD) No. 1097 of 2020

and

C.M.P. (MD) No. 5969 of 2020

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Home,
Fort St. George,
Chennai - 600 009.
2. The Director General of Police (Law & Order),
Chief Office, Mylapore, Chennai - 600 004.
3. The Superintendent of Police
- cum - Enquiry Officer,
Dindigul, Dindigul District.
4. The Superintendent of Police,
Tirunelveli, Tirunelveli District.
5. The Superintendent of Police,
Kanyakumari, Kanyakumari District. : Appellants/Respondents

Vs.

M.K. Mohan : Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent as against the order dated 26.11.2019 made in W.P. (MD) No. 16807 of 2019.

Prayer in WP (MD). 16807/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court calling for the records relating to the impugned charge memo in proceedings in Tha. Pa. No. 59/2019 dt. 4.5.2019 (received on 13.5.2019) issued by the 3rd respondent superintendent of police, Dindigul District quash the same.

For Appellants : Mr. K. P. Krishnadoss,
Special Government Pleader

For Respondent : Mr. T. Cibi Chakraborty



JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

This appeal has been preferred by the appellants aggrieved over the quashment of the charge memo dated 04.05.2019, on the ground of delay in initiating the proceedings against the respondent at the verge of his retirement on 31.12.2019.

2. Admittedly, the occurrence was of the year 2006. For the aforesaid occurrence, the aggrieved party approached the State Human Rights Commission, which passed an order on 06.05.2011 in SHRC Case No.6683 of 2006, making the following recommendations:

"1.The Government of Tamil Nadu shall make a payment of Rs.50,000/- (Rupees Fifty Thousand only) to the complainant Tmt.Padma, W/o Chinnasamy, Kamanampatti, Therkuthottam, Marambadi Village, Vedasandur Tk., Dindigul Dt. within ten weeks from the date of receipt of this order towards compensation for the violation of human rights by the two respondents viz. (1) Thiru M.K.Mohan, Inspector of Police, Eriyodu Circle, Dindigul District and (2) Tmt.B.Muthumeenakshi, Sub-Inspector of Police, Eriyodu Police Station, Dindigul District.

2.After making such payment, the Government of Tamil Nadu shall recover a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each from the salary of the two respondents viz. (1) Thiru M.K.Mohan, Inspector of Police, Eriyodu Circle, Dindigul District and (2) Tmt.B.Muthumeenakshi, Sub-Inspector of Police, Eriyodu Police Station, Dindigul District in installments."

3. In pursuant to the same, recovery proceedings have been initiated against the respondent by the proceedings dated 23.09.2011. It was put into challenge by the respondent by way of filing a writ petition in W.P.(MD)No.13978 of 2011, which was dismissed on 04.07.2013, *inter alia*, holding that a consequential order cannot be challenged. Thereafter, the respondent submitted a request for voluntary retirement on 24.07.2018. It was rejected by the proceedings dated 14.12.2018. This was also challenged by way of a writ petition in W.P.(MD)No.12882 of 2019 and this Court by order dated 26.11.2019 allowed the said writ petition and directed the appellants to consider the request of voluntary retirement.

4. In the meanwhile, the impugned charge memo was issued on 04.05.2019 for the occurrence, which was the subject matter of the order passed by the State Human Rights Commission, dated 06.05.2011. The learned Single Judge allowed the writ petition on the ground of delay. Challenging the aforesaid order, the present appeal has been filed.

5. The learned Special Government Pleader appearing for the



appellants submitted that mere delay *per se* cannot be a ground to quash the proceedings. It is only in pursuant to the order passed by the State Human Rights Commission, a decision was taken to initiate the proceedings. The recovery was also made. Therefore, the order of the learned Single Judge requires interference.

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6. The learned Counsel appearing for the respondent submitted that there is absolutely no explanation for the delay. The charge memo has been issued only after the receipt of the request for voluntary retirement by the respondent. In such view of the matter, the order of the learned Single Judge does not warrant interference.

7. We have paid our anxious consideration to the rival submissions and also to the materials placed on record.

8. Admittedly, the occurrence was in the year 2006. The order passed by the State Human Rights Commission in the year 2011 does not have any connection with the charge memo impugned, in the sense, there is no bar for the appellants to initiate action in the year 2006 itself. Even after the passing of the order by the State Human Rights Commission, no initiation has been done till 04.05.2019. This was done after the recovery proceedings were initiated, concluded and followed by the request made by the respondent for voluntary retirement and the consequential rejection. Therefore, the learned Single Judge is perfectly right in holding that after more than a decade and without any basis and by keeping the order of the State Human Rights Commission as a cause, the proceedings cannot be initiated and that too even after the expiry of six years thereafter.

9. In such view of the matter, we do not find any reason to interfere with the order of the learned Single Judge and accordingly, this writ appeal stands dismissed. The appellants are directed to settle the consequential retirement benefits to the respondent within a period of twelve weeks from the date of receipt of a copy of this judgment. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar (CS)

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TO

1.The State of Tamil Nadu,
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Fort St.George,
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Kanyakumari, Kanyakumari District.

+1 CC to M/s.T.CIBI CHAKRABORTHY, Advocate (SR-10626[F] dated
12/03/2021)

+1 CC to M/s.SPL GP (SR-10900[F] dated 12/03/2021)

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NA (CO)
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