



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.18605 of 2020

and WMP(MD)No.15558 of 2020

WEB COPY

S.Ganesan

... Petitioner

vs

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned charge memo in No.B1 (E2)/30411/2009 dated 29.05.2010 on the file of the respondent and quash the same as illegal with all consequential benefits within the time stipulated by this Court.

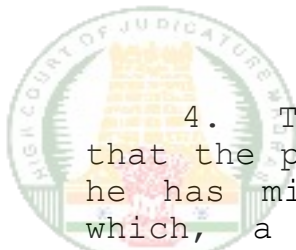
For Petitioner : Mr.T.Thirumurugan
For Respondent : Mr.T.S.Mohammed Mohideen

ORDER

This writ petition is filed challenging the charge memo dated 29.05.2010 issued by the first respondent.

2. The petitioner joined as Junior Assistant in the respondent Corporation on 10.08.1994. While so, a complaint has been lodged by the respondent alleging that during the period from April 2007 to May 2009, the petitioner disbursed double payment for 1400 pensioners of Madurai Corporation and caused loss to the respondent Corporation to the tune of Rs.55,00,000/- and a case has been registered in Cr.No.7 of 2010. Based on the criminal case, the petitioner was placed under suspension and subsequently, a charge memo dated 29.05.2010 has been issued. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that the charge memo dated 29.05.2010 is kept pending without any enquiry and without passing any final order for the past 10 years. The learned counsel for the petitioner further submits that the charge memo itself is passed only based on the criminal case registered against the petitioner in Cr.No.7 of 2010. Now, the criminal case has been dropped without any further action. Therefore, the charge memo dated 29.05.2010 is liable to be quashed. In support of his contention, the learned counsel for the petitioner has also relied upon the decision of this Court in the case of ***R.Rajasekar vs. Secretary to Government, Agricultural Department, Chennai and others***, reported in ***2009 3 MLJ 108***.



4. The learned counsel appearing for the respondent submits that the petitioner is facing a charge for serious allegation that he has misappropriated a huge sum of Rs.2,33,00,000/-, out of which, a sum of Rs.1,40,00,000/- has been recovered and the remaining amount is yet to be recovered. The learned counsel for the respondent further submits that though the criminal case has been dropped by the Investigating Agency, it is not a bar for the Department to proceed further with the departmental enquiry. The ratio in the criminal case and the ratio in the departmental proceedings are entirely different in this case. No doubt, there is a delay in proceeding with the Departmental Proceedings, since the criminal case is pending and the respondent was under the impression that pending the criminal case, they are not supposed to proceed with the enquiry and therefore, they have not proceeded with the enquiry. The learned counsel for the respondent further submits that the respondent would proceed with the enquiry, conclude the same and pass final order, within a period of two weeks.

5. Considering the rival submissions made, this Court, without expressing anything on merits, directs that respondent to conclude the departmental proceedings and pass final orders on merits and in accordance with law, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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TO
The Commissioner,
Madurai Corporation, Madurai.

+1 CC to M/s.T.THIRUMURUGAN, Advocate(SR-37311[F] dated 03/12/2021)
+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-37512[F] dated
06/12/2021)

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USK (27.12.2021) 2P 4C

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