



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2021

CORAM :

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THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos.21829 of 2019 & 2343 of 2020 and
WMP(MD) No.18568 of 2019

K.Sankarasekaran

...Petitioner in both WPs

Vs.

1.The District Collector,
Office of the District Collector,
Dindigul.

2.The Enquiry Officer/Sub Collector,
Palani,
Dindigul District.

...Respondent in both WPs

PRAYER in W.P(MD) No.21829 of 2019: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned charge memo passed by the first respondent vide his proceedings in Na.Ka.No.41215/2017/A1, dated 18.09.2019 and quash the same as illegal and for other relief.

PRAYER in W.P(MD) No.2343 of 2020: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.25985/2019/A1, dated 11.11.2019 and quash the same as illegal and consequently directing the first respondent herein to pass final order based on the enquiry report submitted by the second respondent vide his proceedings in Na.Ka.No.3655/17/A4, dated 07.09.2017, in the enquiry proceedings initiated against the petitioner vide charge memo No.13534/2016/A1, dated 04.01.2017, within the time stipulated by this Court.

For Petitioner
For Respondents

:Mr.J.Lawrence
:Mr.S.Saji Bino
Special Government Pleader
(in both WPs)



C O M M O N O R D E R

The Writ Petition in W.P(MD) No.21829 of 2019 is filed as against the charge memo in Na.Ka.No.41215/2017/A1, dated 18.09.2019 issued by the first respondent, on the ground that the charges are similar to that of earlier charges issued as against the petitioner on 04.01.2017.

2.The writ petition in W.P(MD) No.2343 of 2020 is filed as against the order passed by the first respondent/District Collector in Na.Ka.No.25985/2019/A1, dated 11.11.2019 and for a consequential direction to conclude the enquiry as against the petitioner, vide charge memo in No.13534/2016/A1, dated 04.01.2017

3.The petitioner in both the writ petition is one and the same and the issue involved in these writ petitions is also with regard to the charges levelled as against the petitioner during different period. Hence, this Court is inclined to dispose of these writ petitions by way of a common order.

4. The case of the petitioner is that when he was working as Manager, TASMAG Godown, Dindigul, he was issued with a charge memo vide proceedings in Na.Ka.NO.13534/2016/A1, dated 04.01.2017, under Section 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The Sub Collector, Palani, was appointed as enquiry officer to enquire into those charges. On completion of enquiry, the enquiry officer has also submitted a report on 07.09.2017. Even then, the first respondent/District Collector has not passed any final order on the charge memo and therefore, the petitioner filed W.P.(MD)No.18038 of 2019 and the same was disposed of by this Court on 20.08.2019, with a direction to the first respondent/District Collector to conclude the departmental proceedings, within a period of twelve weeks from the date of receipt of a copy of that order. Irrespective of the order passed by this Court, the enquiry has not been concluded. However, the order has been passed by the first respondent on 11.11.2019 that in view of the further proceedings been taken over by the Government, they are not inclined to pass any further orders. In the meantime, the second charge memo was issued on 18.09.2019 and according to the petitioner, the present charge memo, dated 18.09.2019 are similar to the charges contemplated as against the petitioner on 04.01.2017. Therefore, this petitioner has challenged the second charge memo, dated 18.09.2019, on the ground that the present charges are similar to that of the earlier charge memo issued on 04.01.2017.

5.The learned counsel for the petitioner submits that the enquiry issue is revolved on the promotion panel prepared by him in



the year 2017. According to the petitioner, he has prepared the promotion panel only in accordance with the guidelines issued by the Government in G.O.22 /Personal and Administrative Reforms (S) Department, dated 24.02.2014. However, the petitioner has been slapped with two charge memos, dated 04.01.2017 and 18.09.2019.

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6.The learned Special Government Pleader appearing for the respondents submits that the charge memo, dated 18.09.2019 was issued pursuant to the directions of the Government in G.O.2 (D) No.28, Revenue and Disaster Management Department, (Service Wing), dated 06.02.2019. The Government has passed an order to initiate departmental action as against this petitioner, Sheristadar and as against one Velmurugan, Assistant District Collector and three others and accordingly charge memo dated 18.09.2019 was issued. In view of the subsequent directions of the Government in G.O.2 (D) No.28, Revenue and Disaster Management Department, (Service Wing), dated 06.02.2019, the District Collector has also taken a decision that he could not pass any further orders on the earlier charge memo issued on 04.01.2017. However, the same has been challenged in the earlier writ petition and the present writ petition is filed as against the charge memo dated 18.09.2019.

7.The learned Special Government Pleader produced the proceedings in Na.Ka.No.41215/2017(1)/A1 dated, 21.12.2021 that the earlier charge memo, dated 04.01.2017 issued as against this petitioner is withdrawn, in view of the subsequent developments and due to second charge memo issued to the petitioner on 18.09.2019. According to the learned Special Government Pleader, subsequent charge memo has been passed only pursuant to the Government order in G.O.2 (D) No.28, Revenue and Disaster Management Department, (Service Wing), dated 06.02.2019 and the earlier charge memo has not been culminated with any punishment and the earlier charge memo has now been withdrawn by the order dated 21.12.2021 and therefore there cannot be any impediment in issuing this further charge memo.

8. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

9.Admittedly, the then District Collector has issued a charge memo as against this petitioner on 04.01.2017. However, pursuant to the directions of the Government in G.O.2 (D) No.28, Revenue and Disaster Management Department, (Service Wing), dated 06.02.2019, subsequent charge memo was issued on 18.09.2019, along with an additional charge as against this petitioner and also three others. Though the earlier charge memo was issued on 04.01.2017 and enquiry was also conducted and report was

<https://hcc.judges.ejms.gov.in/hccservices/>



Now, the earlier charge memo, dated 04.01.2017 is withdrawn by the Government.

10. In view of the above, these writ petitions are disposed of with a direction to the respondents to conclude the enquiry on the charge memo, dated 18.09.2019, within a period of four months from the date of receipt of a copy of this Order and shall pass final orders. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Office of the District Collector,
Dindigul.

2. The Enquiry Officer/Sub Collector,
Palani,
Dindigul District.

+1 CC to M/s.SPL GP (SR-40239 & 40240[F] dated 23/12/2021)

Common Order made in
W.P(MD) Nos.21829 of 2019 & 2343 of 2020 and
WMP(MD) No.18568 of 2019
22.12.2021

ark(CO)

GC(22.02.2022) 4P 4C