



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

W.P (MD) No.17382 of 2016

and

W.M.P. (MD) No.12612 of 2016

R.Saravanamurthy

... Petitioner

Vs.

1.The Director of Town Panchayat,
Kuralagam,
Chennai-600 108.

2.Mr.S.M.Malayaman Thirumudikarai,
Joint Director (Schemes),
Office of the Director of Town Panchayat,
Kuralagam, Chennai-600 108.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records relating to the impugned charge memo of the first respondent in Na.Ka.No.5235-4/2015/A5, dated 06.06.2016, impugned proceedings of the first respondent appointing the second respondent as Inquiry Officer in proceedings No.5235-1/2015/A5, dated 13.06.2016 and the impugned proceedings of the second respondent in Na.Ka.No.01/2016/EE (THI) VISARANAI, dated 11.08.2016 and quash the same.

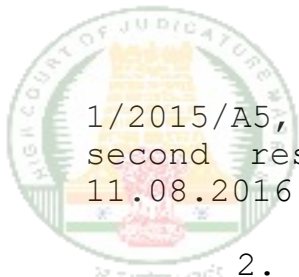
For Petitioner : Mr.Veerakathiravan
Senior Counsel for Mr.C.Jeganathan

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
for R.1

* * * * *

ORDER

This Writ Petition is filed seeking for issuance of a writ of Certiorari to call for the records relating to the impugned charge memo of the first respondent in Na.Ka.No.5235-4/2015/A5, dated 06.06.2016, impugned proceedings of the first respondent appointing the second respondent as Inquiry Officer in proceedings No.5235-



1/2015/A5, dated 13.06.2016 and the impugned proceedings of the second respondent in Na.Ka.No.01/2016/EE (THI) VISARANAI, dated 11.08.2016 and quash the same.

2. The case of the petitioner is that the petitioner entered into service as Record Clerk in the first respondent Department in the year 1975 and after attaining the age of superannuation, he retired on 31.08.2013 as Selection Grade Executive Officer (Admn) in the first respondent Department and the petitioner retired with effect from 31.08.2013 and he was relieved from service on 01.09.2013 by the District Collector, Thanjavur. The pension paying authorities also granted pension to the petitioner with effect from 01.09.2013. After retirement, the impugned charge memo was issued against the petitioner, as if, while he was working as Selection Grade Executive Officer (Admn.,) in the office of the Assistant Director of Town Panchayat, Thanajvur, he was appointed as an Inquiry Officer, by the proceedings of the Assistant Director, dated 13.05.2013 to conduct an inquiry into the appointments made by the Vallam Town Panchayat more fully by the Executive Officer, Tmt.Shanthi and three others and one John Peter was the complainant, who gave complaints that there were irregularities in the appointments.

3. The petitioner's appointment as Inquiry Officer was a quasi judicial in nature and during the inquiry in the said subject matter, the said John Peter could not file any documentary proof in proof of the allegations into the appointment of the Vallam Town Panchayat and based on the evidences available in the inquiry, the petitioner gave a detailed report to the Assistant Director of Town Panchayat by stating that the allegation of John Peter is not substantiated during the inquiry. However, after receipt of the inquiry report, the first respondent has conducted disciplinary proceedings on the ground that the petitioner has not drawn a proven minute as Inquiry Officer. Challenging the same, the present writ petition is filed.

4. Learned Senior Counsel appearing for the petitioner would submit that the petitioner, while he was in service, acted as Inquiry Officer and that action was as a quasi judicial in nature and the Inquiry Officer is expected to draw a report based on the evidences available before him and accordingly, the petitioner has drawn the unproved minute against the Officers on the ground that the allegation of John Peter was not substantiated during the inquiry and the charge memo issued against the petitioner is unsustainable one.

5. The learned Senior Counsel would also submit that the issue arises in the present case is no more *res integra* and was settled by the Honourable Supreme Court in ***Zunjarrao Bhikaji Nagarkar Vs. Union of India and Others*** reported in **(1999) 7 Supreme**



Court Cases 409. Therefore, the learned Senior Counsel would pray for appropriate orders.

6. Learned Additional Government Pleader appearing for the first respondent would submit that the petitioner, while serving as Selection Grade Executive Officer Grade (Admn.,), Thanjavur, was entrusted to enquire a complaint against certain officials of the Vallam Town Panchayat and the petitioner submitted his report dated 14.05.2013. Subsequently, the defacto complainant preferred CrI.O.P.(MD)No.14348 of 2013 and this Court, vide order dated 12.09.2013, directed the Superintendent of Police, Vigilance and Anti Corruption, Thanjavur to take action on the complaint dated 30.04.2013 and after conducting enquiry, the Director of Vigilance and Anti Corruption, vide order dated 16.03.2015 had requested the first respondent to initiate departmental disciplinary proceedings as against certain officials including the petitioner for their misconducts. He would further submit that the charge memo cannot be challenged at the threshold and hence, he would pray for dismissal of the writ petition.

7. Heard the learned Senior Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent and perused the materials placed on record.

8. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service as Record Clerk in the first respondent Department in the year 1975 and after attaining the age of superannuation, he retired on 31.08.2013 and also received his pension benefits. After retirement, the impugned charge memo was issued against the petitioner, as if, while he was working as Selection Grade Executive Officer (Admn.,) in the office of the Assistant Director of Town Panchayat, Thanajvur, he was appointed as an Inquiry Officer, by the proceedings of the Assistant Director, dated 13.05.2013 to conduct an inquiry into the appointments made by the Vallam Town Panchayat more fully by the Executive Officer, Tmt.Shanthi and three others, on the complaint given by one John Peter by stating that there were irregularities in the appointments and the petitioner's appointment as Inquiry Officer was a quasi judicial in nature and after conducting inquiry, the petitioner gave a detailed report to the Assistant Director of Town Panchayat by stating that the allegation of John Peter is not substantiated during the inquiry. However, after receipt of the inquiry report, the first respondent has conducted disciplinary proceedings on the ground that the petitioner has not drawn a proven minute as Inquiry Officer.

9 At this relevant point of time, it is necessary to extract hereunder the relevant portion of the judgment cited by the learned Senior Counsel appearing for the petitioner in **Zunjarrao Bhikaji Nagarkar Vs. Union of India and Others** reported in **(1999) 7 Supreme**



Court Cases 409:

If, every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi judicial officers like the appellant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi judicial authority. The entire system of administrative adjudication whereunder quasi judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings.

10. A perusal of the above said judgment, it makes it clear that if this type of charge memo is allowed to continue, it will thus impinge upon the confidence and independent functioning of a quasi-judicial authority and the entire system of administrative adjudication where under quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings.

11. Further, the disciplinary proceedings were initiated against some officials at the instigation of the complaint given by one John Peter and inspite of so many opportunities were given, the said John Peter did not file any documentary evident to prove the allegations made against the officials and this Court issued a direction to initiate the disciplinary proceedings only against the wrong doers. Further, any disciplinary proceedings against the quasi judicial officer is not a sustainable one.

12. In view of the clear terms of the above cited decision and further, the petitioner acted as a quasi judicial officer, gave a report and it is for the disciplinary authority to accept or differ the same and initiate further course of action as per law. Without doing so, issuing of charge memo against the petitioner is unsustainable one and hence, the charge memo issued against the petitioner is liable to be quashed.



13. In view of the above reasons, the Writ Petition stands allowed. No costs. Consequently the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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
The Director of Town Panchayat,
Kuralagam,
Chennai-600 108.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-5519
[F] dated 17/02/2021)

+1 CC to M/s.SPL GP (SR-5666[F] dated 17/02/2021)

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nsm(CO)
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