



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.(MD)No.14657 of 2017

W.M.P.No.11481 of 2017

WEB COPY

A.Sundararajan

Petitioner

Vs.

1.The State of Tamilnadu,
Represented by its Secretary to the Government,
Tamil Development and Hindu,
Religious Endowment Department,
Fort St.George,
Chennai - 600 009.

2.The Government of Tamil Nadu,
Rep by its Secretary,
Public Service Commission,
Fort St.George, Secretariat,
Chennai - 600 009.

3.The Commissioner,
Hindu Religious Charitable Endowment and
Administration,
Numgambakkam,
Chennai - 600 034.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Charge Memo issued by the third respondent dated 19.06.2017 in his Na.Ka.No.53277/2016/L4 and quash the same and to direct the respondents to pass orders on the representations dated 27.06.2017 of the petitioner and to furnish copies of the documents relied on the Charge Memorandum and to disburse the monetary benefits for selection grade pay fixation from 01.04.2002 to 31.07.2016 and Special Grade Pay Fixation from 01.04.2012 to 31.07.2016.

For Petitioner : Mr.K.Alagarsamy
For R1 & R3 : Mr.M.Lingadurai
For R2 : Mr.K.K.Senthil

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned charge memo issued by the third respondent on 19.06.2017 and to direct the respondents to pass orders on the representations of the petitioner and furnish copies of documents relied upon by the petitioner in the charge memorandum and to disburse all retirement benefits.



2.The petitioner joined as Executive Officer, Grade IV through Tamil Nadu Public Service Commission in the year 1991. After serving in various places in various capacities, it is admitted that the petitioner retired from service on 31.07.2016. However, the impugned charge memo was issued to the petitioner under Rule 17(b) of Tamil Nadu Civil Services Discipline and Appeal Rules, 1955. Questioning the charge memo, the above Writ Petition is filed.

3.The learned counsel appearing for the petitioner submitted that the charge memo issued after the retirement of the petitioner is invalid as the petitioner was not in service at the time of issuance of charge memo.

4.In the counter affidavit filed by the respondent, the respondent has admitted the fact that the charge memo was issued only after retirement of the petitioner. The only explanation offered by the respondent is that misdeeds committed by the petitioner was discovered after he was permitted to retire from service on 31.07.2016. It is further submitted that the proceedings were initiated against the petitioner under Rule 9(2) (b) (i) of Tamil Nadu Pension Rule 1978. The contention of the respondent in paragraphs 13 & 14 are relevant and hence the same is extracted hereunder:-

13.It is submitted that this respondent has issued the charge memo for the misdeeds committed by the petitioner between the year 1996 to 2016. At the time of retirement, the misdeeds committed by the petitioner was not discovered, hence he was permitted to retire from service on 31.07.2016. Thereafter the misdeeds committed by the petitioner was discovered after his retirement. The charge memo has been issued in respect of event which took place within 4 years from the date of institution of disciplinary proceedings.

14.It is submitted that as the petitioner was retired from service major punishment such as reduction in rank, compulsory retirement, removal or dismissal from service could not be imposed against him. Hence proceedings was instituted against the petitioner under Rule 9(2)(b)(i) of Tamil Nadu Pension Rule 1978. Hence the charge memo was issued by the respondent as per the Rules only.

5.Quite contrary to the stand taken by the respondent in the counter affidavit, the charge memo impugned in the present Writ Petition does not refer to Pension Rules. But the charge memo impugned refers to Rule 17(b) of Tamil Nadu Civil Services



Discipline and Appeal Rules, 1955. Though it is stated that under rule 9 2(b) (i) of Tamil Nadu Pension Rules, direction has been granted to the Department to initiate departmental proceedings under the said rules, it is not stated how the charge memo is maintainable after the retirement of the petitioner. It is not the case of the respondent that an order has been passed extending the services of the petitioner. The respondent categorically admitted that they came to know about the misdeeds committed by the petitioner only after his retirement. It is also relevant to mention that the charge memo is very vague and several lapses were pointed out for long period during which the petitioner was employed in different capacities under the respondent. Rule 2(b) of Tamil Nadu Pension Rules therefore cannot be cited to sustain the charge memo in this case for the misdeeds committed for the period from 1996 to 2000.

6.This Court therefore find that the impugned charge memo is without authority and hence invalid. Accordingly, this Writ Petition is allowed. The impugned charge memo dated 19.06.2017 is hereby quashed. The respondents are directed to process the retirement benefits and all other monetary benefits to the petitioner for which he is entitled, with 4% interest per annum, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

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 Secretary to the Government,
Tamil Development and Hindu,
Religious Endowment Department,
Fort St.George,
Chennai - 600 009.

2.The Secretary,
Public Service Commission,
Fort St.George, Secretariat, Chennai - 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Commissioner,
Hindu Religious Charitable Endowment and
Administration,
Numgambakkam,
Chennai - 600 034.

+2 CC to M/s.K.ALAGARSAMY, Advocate (SR-28459[F] dated 07/09/2021)

+1 CC to M/s.GP (SR-28522[F] dated 08/09/2021)

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RD(16.09.2021) 4P 7C