



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6893 of 2022

and

W.M.P.No.6939 of 2022

S.Sathya

...Petitioner

Vs.

1. The Director,
Office of the Director of Municipal
Administration,
Chepauk, Chennai-5.

2. The Commissioner,
Kulithalai Municipality,
Kulithalai,
Karur District.

...Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the charge memo dated 08.10.2021 made in Na.Ka.No.10053/2020/C2-3 of the first respondent and quash the same and consequently, direct the first respondent to reinstate the petitioner into service.

For Petitioner : Mr.C.Sivanesan

For R1 : Ms.R.L.Karthika
Government Advocate

For R2 : Mr.L.P.Maurya

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed seeking to quash the charge memo dated 08.10.2021 made in Na.Ka.No.10053/2020/C2-3 of the first respondent and consequently, direct the first respondent to reinstate the petitioner into service.



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3. The case of the petitioner in brief:

While the writ petitioner was discharging her duty as Accountant in the second respondent Municipality, she was arrested by the police on the complaint given by the second respondent that she had committed irregularities and misappropriation of funds. Thereafter, the respondent had served a charge memo dated 24.07.2020 by initiating proceedings under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Based on the aforesaid charge memo, the petitioner was suspended from service by the first respondent by his proceedings dated 30.07.2020. The aforesaid charge framed by the second respondent is blatantly false, baseless and the same is invented by the second respondent. All the cheques are supported by Note file prepared by the Clerk concerned and after getting sanction from the second respondent/Commissioner in the Note file, cheques will be prepared and signatures would be obtained by the petitioner. No cheque without the Note file would be signed by the second respondent. The petitioner has no role to play in the quantum of amount mentioned in the cheques and she has no authority to question the orders of the second respondent. Therefore, the proceedings initiated by the second respondent as against the petitioner is highly unsustainable in law. Further, the petitioner was remanded to judicial custody following the criminal case registered by the District Crime Branch Police. The aforesaid criminal case is still pending. On the aforesaid ground, the said charge memo is liable to be quashed. Hence, this writ petition is filed before this Court.

4. The learned Additional Government Pleader appearing for the first respondent would submit that the aforesaid grounds raised by the petitioner is not legally sustainable. Regarding the charge memo, the writ petitioner has to make all her contentions before the authority concerned and submit her explanation stating that the petitioner has not involved in the aforesaid misappropriation of funds.

5. Considering the facts and circumstances of the case and on perusal of the impugned charge memo, it appears that while the writ petitioner was working as Accountant in the second respondent Municipality, she had maintained the accounts and files in the respondent Municipality. During that period, the second respondent has made a charge against the petitioner that she had issued cheques to the private individuals to the tune of Rs.93,45,359/-. The learned counsel for the petitioner would submit that the aforesaid allegation is false and baseless and the petitioner has no role to play in the quantum of amount mentioned in the cheques. Further, the petitioner has no authority to question the orders of the second respondent and she has not involved in the aforesaid charges. These are all the



factual disputes. This Court need not be gone into the disputed facts. However, without submitting her explanation to the charge memo issued by the 2nd respondent, the petitioner has approached this Court and therefore, this Court cannot interfere with the charge memo unless there is a malafide or inordinate delay in framing the charges. The petitioner can submit her explanation in response to the charge memo and place all the grounds raised by her in this writ petition before the concerned authority.

6. At this juncture, it is useful to refer the decision rendered by the Apex Court in the case of Secretary, Ministry of Defence and others vs. Prabhash Chandra Mirdha reported in (2012) 11 Supreme Court Cases 565, wherein it is held as follows:

"8. The law does not permit quashing of charge-sheet in a routine manner. In case the delinquent employee has any grievance in respect of the charge-sheet he must raise the issue by filing a representation and wait for the decision of the disciplinary authority thereon. In case, the charge-sheet is challenged before a court/tribunal on the ground of delay in initiation of disciplinary proceedings or delay in concluding the proceedings, the court/tribunal may quash the charge-sheet after considering the gravity of the charge and all relevant factors involved in the case weighing all the facts both for and against the delinquent employee and must reach the conclusion which is just and proper in the circumstance.

Ordinarily a writ application does not lie against a charge-sheet or show-cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge-sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a charge-sheet or show-cause notice in disciplinary proceedings should not ordinarily be quashed by the court.

Neither the disciplinary proceedings nor the charge-sheet be quashed at an initial stage as it would be a premature stage to deal with the issues.



In view of the aforesaid discussion and the decision cited supra, I find no merits in this writ petition and the same is liable to be dismissed.

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7. With the above observation, this writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director,
Office of the Director of Municipal
Administration,
Chepauk, Chennai-5.
2. The Commissioner,
Kulithalai Municipality,
Kulithalai, Karur District.

+1cc to Mr.M.Baskaran, Advocate, S.R.No.20462

+1cc to the Government Pleader, S.R.No.20650

W.P.No.6893 of 2022
and
W.M.P No.6939 of 2022

SR(CO)
SU(11/05/2022)