



W.P.No.6765 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

W.P.No.6765 of 2022  
and WMP.Nos.6844 & 17703 of 2022

L.Thiruppathi

.. Petitioner

Vs.

1.The Government of Tamil Nadu

Rep by its Secretary

Co-operation, Food and Consumer Protection Department

Secretariat, Chennai - 600 009.

2.The Registrar

O/o. The Registrar of Co-operative Societies

V.N.Maligai, Kilpauk, Chennai - 600 010.

3.The Deputy Registrar of Co-operative Societies (Housing)

Salem Region

Salem District - 636 016.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the third respondent in his proceedings in Na.Ka.No.1336/2021/A dated 24.02.2022 and quash the same.

For Petitioner : Mr.K.Raja

for Mr.N.Kolandaivelu

For Respondents : Mr.R.U.Dinesh Rajkumar

Additional Government Pleader



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## **ORDER**

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In this writ petition, the petitioner has challenged the impugned charge memo dated 24.02.2022 issued to him.

2. The petitioner has raised the following grounds for challenging the impugned charge memo :

- (a) The alleged incident which is the basis of the impugned charge memo is of the year 2002.
- (b) The third respondent having come to know of the incident in the year 2008, did not initiate disciplinary proceedings against the petitioner for over a period of 14 years and only thereafter, under the impugned charge memo dated 24.02.2022, they have initiated disciplinary proceedings, which according to the petitioner is bad in law.
- (c) The disciplinary proceedings referred to by the third respondent does not involve the subject Society, for which the impugned charge memo has been issued to the petitioner. Further, the petitioner claims that the disciplinary proceedings initiated against the petitioner in respect of other societies, have also been dropped.



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(d) The petitioner has retired from service on 31.05.2016. But despite the same, the impugned charge memo has been issued only on 24.02.2022.

3. This Court by its interim order dated 25.03.2022, passed in this writ petition, had granted interim stay in respect of passing of final orders by the respondents alone. But till date, no Enquiry Officer was appointed by the respondents, even after a lapse of more than eight months from the date of the said order.

4. The counter affidavit as well as the additional counter affidavit has been filed by the third respondent denying the contentions of the petitioner. They have reiterated the charges framed against the petitioner, in the impugned charge memo, in the said counter affidavits. According to them, an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was ordered by the Deputy Registrar (Housing), Salem Region in his proceedings dated 24.11.2005 against the petitioner and based on the said enquiry, an enquiry report was submitted on 05.08.2008. The Enquiry Officer was recommended to take disciplinary action against the petitioner. However, according to them,



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at that time, there was scarcity of staff in the Office of the Deputy Registrar (Housing), Salem Region and only due to the said fact, there was a delay in initiating disciplinary action against the petitioner. It is also averred in the counter that only in accordance with law, the impugned charge memo dated 24.02.2022 has been issued to the petitioner and as per the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, there was no time limit fixed for issuing a charge memo to the petitioner. According to them, the petitioner was allowed to retire without prejudice to the rights of the respondents to initiate disciplinary action against the petitioner for the irregularities committed by him in sanctioning loans to the customers in the year 2022. The respondent also contend that they have initiated action against the petitioner under Rule 9 of the Tamil Nadu Pensioners Rules, 1978.

5. Heard Mr.K.Raja, assisted by Mr.N.Kolandaivelu, learned counsel for the petitioner and Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader for the respondents.

6. The learned counsel for the petitioner in his submissions, has reiterated the contents of the affidavit filed in support of this writ



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petition. Similarly, the learned Additional Government Pleader appearing for the respondents reiterated the contentions of the third respondent in the counter affidavit as well as in the additional counter affidavit filed by the third respondent.

7. In support of his contentions, learned counsel for the petitioner drew the attention of this Court to the judgment of the Hon'ble Supreme Court in the case of ***P.V.Mahadevan vs. Managing Director of Tamil Nadu Housing Board*** reported in ***(2005) 6 SCC 636*** and would submit that as per the said decision, when there is an inordinate delay in initiating departmental enquiry, charge memo will have to be quashed. He would submit that in the case on hand, admittedly the incident is said to have taken place in the year 2002 and admittedly, the third respondent came to know about the same in the year 2008 itself, but has issued the impugned charge memo only on 24.02.2022. Therefore, on account of inordinate delay in initiating action against the petitioner and on account of the fact that the petitioner has retired from service in the year 2016 itself, the question of initiating disciplinary proceedings against the petitioner in the year 2022, for the incident that had happened in the year 2002, will not arise now.



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WEB COM **Discussions :**

8. The following are the undisputed facts :

- (a) The incident happened in the year 2002. As per the said incident, the petitioner while he was discharging his duties as a Special Officer, had advanced loans to the customers, based on fraudulent documents produced by the said customers.
- (b) The incident came to the knowledge of the third respondent in the year 2008.
- (c) The petitioner retired from service on attaining superannuation in the year 2016.
- (d) The impugned charge memo was issued to the petitioner only on 24.02.2022 by the third respondent.
- (e) An interim direction was issued by this Court on 25.03.2022 in WMP.No.6844 of 2022 in this writ petition, under which, an interim stay was granted only in respect of passing of final orders by the respondents. However, there was no prohibition for the respondents to appoint an Enquiry Officer and proceed with the enquiry



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upto the stage of submission of an enquiry report.

(f) Admittedly no further steps have been taken by the respondents, subsequent to the passing of the interim direction by this Court on 25.03.2022 in WMP.No.6844 of 2022, even after a lapse of more than seven months.

9. After giving due consideration to the aforementioned undisputed facts, this Court is of the considered view that the decision of the Hon'ble Supreme Court in the case of ***P.V.Mahadevan vs. Managing Director of Tamil Nadu Housing Board*** reported in ***(2005) 6 SCC 636*** squarely applies to the facts of the instant case. In that decision, the Hon'ble Supreme Court has held that since no convincing reason was given by the respondent (employer) for the inordinate delay in initiating departmental proceedings, the charge memo was ordered to be quashed, considering the fact that the delinquent would have suffered mental agony and sufferings due to the inordinate delay.

10. The facts in the case on hand is also similar. As in this case also, even though the incident happened in the year 2002, which came to the knowledge of the third respondent in the year 2008, the



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respondent have chosen to remain silent for almost 14 years, and only after the petitioner's retirement in the year 2016, that too only on 24.02.2022, they have initiated disciplinary proceedings against the petitioner by issuing the impugned charge memo dated 24.02.2022. The petitioner also contends that the disciplinary proceedings initiated against him in respect of other societies where he served as Special Officer, have already been dropped, which is also not disputed by the respondents. No convincing reason has also been given by the respondents for the inordinate delay in issuing the charge memo.

11. For the foregoing reasons, in the light of the decision of the Hon'ble Supreme Court referred to supra, this impugned charge memo has to be necessarily quashed. Accordingly, the impugned charge memo dated 24.02.2022 is hereby quashed and the writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / no  
Speaking Order/Non-speaking Orders



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- 1.The Secretary  
Co-operation, Food and Consumer Protection Department  
Secretariat  
Chennai - 600 009.
- 2.The Registrar  
O/o. The Registrar of Co-operative Societies  
V.N.Maligai, Kilpauk  
Chennai - 600 010.
- 3.The Deputy Registrar of Co-operative Societies (Housing)  
Salem Region  
Salem District - 636 016.



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ABDUL QUDDHOSE.J.,

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