



W.P. No. 15513 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No. 15513 of 2022

and

W.M.P.Nos. 14680 & 14681 of 2022

R. Ganesan

...Petitioner

Vs.

1. The Managing Director,
Tamilnadu State Transport Corporation, (Salem Zone)
No. 12, Ramakrishna Salai,
Salem- 636 007.
2. The General Manager,
Tamilnadu State Transport Corporation,
Salem Division,
No. 12, Ramakrishna Road,
Salem – 7.
3. The Branch Manager,
Tharamangalam Branch,
Tamilnadu State Transport Corporation,
Tharamangalam,
Salem District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for records pertaining to the proceeding in Charge memo Ku.No. 315- 3268-T8-Tha.A-Po.ka(Salem)-2022 dated 17.02.2022 issued by the second respondent and quash the same.



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For Respondents : Mr. K. Raja,
Standing Counsel

ORDER

The writ petition is filed for the issuance of a writ of Certiorari, calling for the records pertaining to the proceeding in Charge memo Ku.No. 315- 3268-T8-Tha.A-Po.Ka(Salem)-2022 dated 17.02.2022 issued by the second respondent.

2. In this writ petition, the petitioner is challenging the impugned show case notice dated 17.02.2022, asking for explanation for the genuineness of the transfer certificate that has been submitted by the petitioner.

3. The contentions of the petitioner is that the reasons stated by him were not duly considered by the respondents and for no fault on the side of the petitioner, the Department has initiated disciplinary proceedings against him and hence, the charge memo has to be quashed.

4. At this juncture, it is worthwhile to mention that, the Hon'ble Supreme Court, In the case of *Union of India vs. Kunishetty Satyanarayana [(2006) 12*

<https://www.mhc.org.in/public> SCC 287, held that writ jurisdiction is discretionary jurisdiction and hence such



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discretion under Article 226 should not be ordinarily exercised by quashing a charge memo. No doubt, in some very rare and exceptional cases, the High Court can quash a charge sheet if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal.

5. In the case of ***Secretary, Ministry of Defence and others Vs. Prabhash Chandra Mirdha***, reported in **2012 11 SCC 565**, the Apex Court observed as follows:-

10. 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. (Vide State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 -: (1987) 3 ATC 319 : AIR 1987 SC 943] , Bihar State Housing Board v. Ramesh Kumar Singh [(1996) 1 SCC 327] , Ulagappa v. Commr. [(2001) 10 SCC 639 : AIR 2000 SC 3603 (2)] , Special Director v. Mohd. Ghulam Ghouse [(2004) 3



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SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] and *Union of India v. Kunisetty Satyanarayana* [(2006) 12 SCC 28 : (2007) 2 SCC (L&S) 304] .) 11. In *State of Orissa v. Sangram Keshari Misra* [(2010) 13 SCC 311 : (2011) 1 SCC (L&S) 380] (SCC pp. 315-16, para 10) this Court held that normally a charge-sheet is not quashed prior to the conducting of the enquiry on the ground that the facts stated in the charge are erroneous for the reason that to determine correctness or truth of the charge is the function of the disciplinary authority. (See also *Union of India v. Upendra Singh* [(1994) 3 SCC 357 : 1994 SCC (L&S) 768 : (1994) 27 ATC 200] .) 12. Thus, the law on the issue can be summarised to the effect that the charge-sheet cannot generally be a subject-matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. 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. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.



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6. In view of the legal principles settled, writ petition against the charge memo cannot be entertained in a routine manner and judicial review against the charge memo is certainly limited. This being the factum, the writ petitioner has to participate in the process of enquiry and submit his explanation to the second respondent and it is for the competent authorities to consider the said explanation and take steps for an early disposal of the disciplinary proceedings and pass reasoned order, as prolonged pendency is also against the delinquent officials.

7. With the above observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
mrn



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D.KRISHNAKUMAR, J.

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