



W.P.No.20645 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20645 of 2014 &
M.P.Nos.1 of 2014 & 1 of 2015

G.Sugumaran

...Petitioner

..Vs..

1.The Government of Tamil Nadu,
rep by its Principal Secretary,
Finance (T&A-I) Department,
Fort St.George, Chennai-9.

2.The Commissioner of Treasuries and Accounts,
Panagal Buildings, Chennai-600 015.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari, calling for the records relating to
the 2nd respondent herein in R.C.No.9653/2012/Q3 dated 20.05.2013
and quash the same.

For Petitioner : MrR.S.Anandan

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

ORDER

The charge memo dated 20.05.2013 issued under Rule
9(2)(b)(ii) of the Tamil Nadu Pension Rules, 1978 is under challenge in



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the present writ petition.

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2. The petitioner was initially appointed as Junior Assistant on 12.07.1976 through Tamil Nadu Public Service Commission. Thereafter, he was promoted to the post of Assistant on 07.06.1984 and posted to Social Welfare Department on request. The petitioner was further promoted to the post of Superintendent on 14.11.1994. He was conferred with the post of Assistant Accounts Officer on 12.09.2002 and promoted to the post of Account Officer on 25.06.2007 and went on deputation to Corporation of Chennai. The petitioner reached the age of superannuation on 30.06.2009 and was allowed to retire from service.

3. The petitioner was issued with a charge memo by the second respondent in proceeding dated 20.05.2013. Four counts of charges have been framed and issued against the writ petitioner. The charges are relating to certain lapses and misappropriation of funds of the Corporation of Chennai. The misappropriation is running to several lakhs of rupees and many other persons are also involved in the allegations. Under these circumstances, the petitioner approached this



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Court mainly on the ground that he was allowed to retire from service on 30.06.2009 and under Rule 9 of the Tamil Nadu Pension Rules, the allegations if falls beyond the period of 4 years from the date of incident, then the charges cannot be framed against the pensioner.

4. The learned counsel for the petitioner reiterated that when the allegations against the petitioner falls beyond the period of four years, the Rule would be applicable and therefore charges are to be set aside.

5. The learned Additional Government Pleader appearing on behalf of the respondents objected the said contention by stating that as many as 14 persons have involved in the misappropriation of the funds of Corporation of Chennai, running to several lakhs of rupees. The entire allegations are to be inquired into by the competent authority. The petitioner, during the relevant point of time, dealt with the files. Therefore in the event of any exoneration, the same will cause prejudice to the interest of the Departmental Disciplinary proceedings.



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6. This Court is of the considered opinion that the petitioner is at liberty to defend his case on facts and based on the provisions of the pension Rules. However, with reference to such complex facts and circumstances, the High Court cannot conduct a roving inquiry for the purpose of forming an opinion. In view of the fact that 14 delinquents have involved in the allegation of misappropriation of funds of the Corporation of Chennai running to several lakhs of rupees, an inquiry is certainly warranted and the charged officials are at liberty to defend their case independently both on facts and under Rule 9 or under any other Rule, which all are applicable to the facts and circumstances of the case. Contrarily, High Court cannot form an opinion on facts for the purpose of grant of exoneration from the allegations of misappropriation.

7. No doubt the petitioner was allowed to retire from service. However, the allegations relates to different period and in respect of individual delinquents, the facts are to be ascertained for the purpose of fixing responsibility and accountability. However, all these require an adjudication based on the documents and evidences. Such an adjudication cannot be done in a writ proceedings.



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8. The writ against a charge memo is normally not entertained by the High Court under Article 226 of Constitution of India. Only if the charge memo is tainted with malafides or issued by an incompetent authority, the Court could not intervene in the charge memorandum, as such allegations are to be inquired into by the competent authorities. The charged officials are at liberty to submit their explanation / objections on the charges and defend their case by affording opportunities to be provided by the competent authority under Rules in force.

9. This being the principles to be followed, the petitioner is at liberty to submit his explanation / objections on the charges along with documents if any and raise all the grounds both on facts and based on the Rules in force and the competent authorities shall proceed with the departmental disciplinary proceedings as expeditiously as possible and conclude the same taking note of the fact that the petitioner is already allowed to retire from service.



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10. Thus, the respondents are directed to conclude the inquiry as expeditiously as possible without causing any undue delay in concluding the proceedings. With these directions, the writ petition stands disposed of. No costs. Connected miscellaneous petitions stand closed.

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mrm/psa
Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order

To

- 1.The Principal Secretary,
The Government of Tamil Nadu,
Finance (T&A-I) Department,
Fort St.George, Chennai-9.
- 2.The Commissioner of Treasuries and Accounts,
Panagal Buildings, Chennai-600 015.



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