



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO. 1210 OF 2014

AND

M.P.NO.2 OF 2014 & W.M.P.NO.31241 OF 2016

D.Vivek
S/o.Dhandapani

...Petitioner

Vs

1. The Deputy Commissioner of Police,
Ambattur Range,
Chennai - 600 053.
2. The Assistant Commissioner of Police,
Ambattur Range,
Chennai - 600 053.
3. The Inspector of Police,
T-16, Nazarathpet Police Station,
Nazarathpet,
Chennai - 602 103.
4. The Inspector of Police,
T-7, Avadi Tank Factory Police Station,
Chennai - 600 054.

[4th respondent impleaded vide of this Court [SMSJ] dated
06.06.2022 made in WMP No.31229 of 2016 in WP No.1210 of 2014]

...Respondents

PRAYER :

Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Prohibition, prohibiting the respondent from proceeding with the Departmental enquiry against the petitioner vide Na.Ka.No.108/Tha.Pi.Me.Ma./2012 dated 31.8.2013 on the file of the first respondent till the conclusion of investigation and trial in File No.S13 of 2012 on the file of the CBI, A Wing, III Floor, Rajaji Bhawan, Besant Nagar transferred from Crime No.204 of 2012 from the file of B7, Vellavedu Police Station.



WEB COPY

For Petitioner : M/s.Nathan and Associates

For Respondents: Mr.M.Bindran
Additional Government Pleader

O R D E R

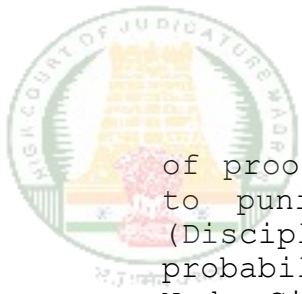
The relief sought for in the present writ petition is to prohibit the respondents from proceeding with the departmental disciplinary proceedings during the pendency of the criminal case admittedly pending before the competent Court of law.

2. The petitioner was serving as Grade-II Police Constable in the Tamil Nadu Police Services. A criminal case was registered against the writ petitioner in Crime No.204 of 2012 under Section 302 of IPC. The petitioner was remanded to judicial custody and lodged at Central Prison, Puzhal, on 25.04.2012 and thus, he was placed under suspension in proceeding dated 01.05.2012. The departmental disciplinary proceedings were initiated and a charge memo was issued against the writ petitioner in proceeding dated 09.12.2012.

3. The learned counsel for the petitioner mainly contended that the allegations in the charge memo are connected with the criminal charges and therefore, the departmental disciplinary proceedings are to be kept in abeyance till the final disposal of the criminal case.

4. Perusal of the charges reveals that it was issued based on the allegation of misconduct against the writ petitioner under the Tamil Nadu Police Conduct Rules. Therefore, the authorities competent are empowered to continue the departmental disciplinary proceedings in respect of such misconduct as involvement in criminal case itself is a misconduct. Conviction or acquittal may not play any role in respect of such misconducts. Even a moral turpitude is sufficient to punish a Government servant under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Therefore, the nature of charges regarding involvement of a public servant in a criminal case itself is a misconduct and the disciplinary authorities are empowered to frame charges under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, conduct enquiry and pass final orders. If at all, the delinquent employee is convicted in a criminal case, thereafter, appropriate action may be taken under the relevant rule in force. Even in case of acquittal, such acquittal may not be a bar for the authorities to proceed with the disciplinary proceedings and imposition of penalty.

5. To convict a person under the criminal law, high standard



of proof is required. However, no such strict proof is required to punish an employee under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Even preponderance of probabilities are sufficient to punish an employee under Tamil Nadu Civil Services (Discipline and Appeal) Rules. This being the difference between criminal proceedings and departmental disciplinary proceedings, mere pendency of a criminal case would not be bar for the authority to continue the departmental disciplinary proceedings.

6. The Courts have considered the scope of simultaneous proceedings, namely, criminal case and departmental disciplinary proceedings. Simultaneous proceedings are permissible and there is no bar. However, only on certain exceptional circumstances if the authorities are incapable of proceeding with the departmental disciplinary proceedings for want of certain documents or otherwise, the proceedings are to be kept in abeyance and not otherwise. In other words, if the documents and evidence are available and the charges are capable of being proceeded with, then there is no bar for the discipline authority to proceed with the departmental disciplinary proceedings and conclude the same by following the procedure contemplated.

7. In the present case, the charge memo has been issued based on the allegation of misconduct. Such misconduct regarding involvement in a criminal case per se can be proceeded with. It is sufficient if documents are available with reference to the charges framed against the writ petitioner. Perusal of the charge memo dated 09.12.2012 reveals that the charges are specific. Annexure-II to the charge memo provides statement of allegations namely, imputation of charges and Annexure-III contemplates list of documents and Annexure-IV denotes list of witnesses to be examined. When all such details are available in the charge memo, there is no necessity to keep the departmental disciplinary proceedings be kept in abeyance. The petitioner may defend the criminal case before the competent Court of law so also defend the departmental disciplinary proceedings in the manner contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

8. This being the facts and circumstances, the relief as such sought for in the present writ petition to prohibit the respondents from proceeding with the departmental disciplinary proceedings deserves no merit consideration. In view of the fact that this writ petition is pending for the past about 8 years, the respondents are directed to proceed with the departmental disciplinary proceedings and conclude the same as expeditiously as possible and by affording an opportunity to the writ petitioner to defend his case in accordance with rules in force.



9. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm/nti

To

1. The Deputy Commissioner of Police,
Ambattur Range,
Chennai - 600 053.
2. The Assistant Commissioner of Police,
Ambattur Range,
Chennai - 600 053.
3. The Inspector of Police,
T-16, Nazarathpet Police Station,
Nazarathpet,
Chennai - 602 103.
4. The Inspector of Police,
T-7, Avadi Tank Factory Police Station,
Chennai - 600 054.

+1cc to the Government Pleader, S.R.No.33039

W.P.No. 1210 of 2014

JPL(CO)
PM/22/06/2022