



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.398 of 2020

and

W.M.P (MD) .No.318 of 2020

M.V.Raja

... Petitioner

Vs.

The Deputy Registrar of Co-operative Societies
(Housing),
Madurai Region,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records in Na.Ka.No.624/2019/Pa.thou dated 27.09.2019 on the file of the respondent, and quash the same as illegal.

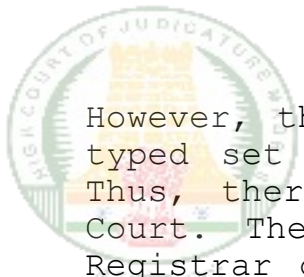
For Petitioner : Mr.S.Kumar

For Respondents : Mr.M.Ramesh
Government Advocate

O R D E R

The charge memo dated 27.09.2019 issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is under challenge in the present Writ Petition.

2. The petitioner is working as Co-operative Sub-Registrar and while he was working in the Public Distribution System, certain allegations are raised and the charges are framed regarding certain illegalities. Annexure-II of the charge memo provides statement of allegations of other misconducts. Annexure-III provides the list of documents relied upon by the Competent Authority. Annexure-IV provides list of documents marked during the course of enquiry. Thus, there is no infirmity as such in respect of charge memorandum issued against the petitioner. The petitioner mainly raised a ground that the respondents have already issued a charge memorandum on 22.03.2013 and the final order was passed imposing the punishment against the petitioner wherein it is specifically held that the petitioner has not performed the duties and responsibilities.



However, the said order of punishment has not been enclosed in the typed set of papers filed along with the present writ petition. Thus, there is no opportunity to verify such contention by this Court. The writ petition contains the proceedings of the Joint Registrar dated 28.04.2017 wherein the petitioner was imposed with the punishment of stoppage of increment for about two years with cumulative effect. The charges in the said petition are not comparable with reference to the impugned charge memo which is connected with some other allegations. Therefore, the petitioner has to defend his case in the manner known to law. The allegations against the petitioner are relating to certain irregularities and illegalities in respect of administration of Co-operative Society. Therefore, the petitioner is at liberty to defend his case by availing the opportunity to be provided by the Competent Authorities, during the course of enquiry.

3. A charge memo is not liable to be quashed as does not adversely affect the rights of an employee and does not give rise to any cause of action. A writ lies only when some rights of a person are infringed. The charge memo does not infringe the rights of a person / employee. It is only when a final order imposing punishment or otherwise is passed, it may give a cause of action. Thus, the writ petition challenging the charge memo by itself is not maintainable.

4. Let us now consider the situations where an employee is issued with a charge memo. On initiation of disciplinary proceedings, charge memo is the first step taken by the Authority concerned to frame certain charges against the employee concerned. Mere framing of charges would not cause any prejudice to the Government employee. He is duty bound to establish his innocence or otherwise with reference to the documents and evidences available. Contrarily, if the disciplinary proceedings are quashed at the budding stage, the rights of the Departments will be prejudiced. Under the Tamil Nadu Government Servants Conduct Rules, a Government servant is bound to maintain a good conduct and integrity throughout his service both inside and outside the office. While so, certain allegations are brought to the notice of the competent Authorities. They are initiating action under the Rules and they are framing charges. Such framing of charges would not cause any prejudice nor provide any cause of action for the purpose of instituting a writ petition. Therefore, framing of charges itself would not provide a cause of action for entertaining a writ petition. However, a writ petition against the charge memo may be entertained on certain exceptional circumstances, where the charge memo has been issued by an incompetent Authority having no jurisdiction or allegation of mala fides is raised. Even in case of raising an allegation of mala fides, the Authority against whom such an allegation raised must be impleaded as party respondent in his personal capacity. Except these circumstances, no writ needs to be entertained against the charge memo and such an entertaining would cause prejudice to the



Department and the likelihood of causing prejudice is also to be considered by the Court, while entertaining a writ petition.

5. In view of the fact that already the charges are pending for about 2 ½ years, the respondent is directed to proceed with the enquiry and conclude the same as expeditiously as possible. The petitioner is directed to co-operate for early disposal of the disciplinary proceedings. In the event of non-co-operation on the part of the writ petitioner, the same may be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled to seek any relief on the ground of delay in disposing the disciplinary proceedings.

6. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

To

The Deputy Registrar of Co-operative Societies
(Housing),
Madurai Region,
Madurai District.

+1 CC to M/s.S.KUMAR, Advocate (SR-10753[F] dated 09/03/2022)

+1 CC to M/s.SPL.GP (SR-10991[F] dated 09/03/2022)

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