



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 21.03.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

**W.P (MD) .No.826 of 2020**

**and**

**W.M.P (MD) No.608 of 2020**

S.Parthasarathy

... Petitioner

Vs.

The Commissioner of  
Disciplinary Proceedings,  
5/1-B Vinayaka Nagar,  
Madurai-20.

... Respondent

**PRAYER:** Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the disciplinary proceedings in No.Roc.No.A1/156/2018(TDP.02/2018) dated 30.05.2019 on the file of the respondent as against the petitioner and quash the same.

For Petitioner :Mr.P.Shanmugaraja

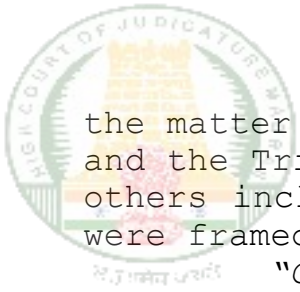
For Respondent :Mr.A.K.Manikkam  
Special Government Pleader

**ORDER**

The charge memo issued by the Tribunal for disciplinary proceedings in proceedings dated 30.05.2019, is under challenge in the present writ petition.

2.The petitioner was appointed as Municipal Commissioner Grade-I in the year 2016 and posted as Devakottai Municipality and he was transferred to Ramanathapuram Municipality and promoted as Selection Grade Municipal Commissioner. Presently, the petitioner is working as Commissioner of Virudhunagar Municipality. The disciplinary proceedings were initiated against the Town Planning Inspector and Fl-Section Assistant, based on the complaint given by one Valarmathi. The allegation is that the said Town Planning Inspector and Fl-Section Assistant issued pre dated building plan approval. Valarmathi's relative viz., one Dravidaselvam, lodged a complaint to the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Sivagangai and FIR was registered in Crime No.2 of 2017 against the Town Planning Inspector under Section 7 of the Prevention of Corruption Act. The said criminal case is pending.

Meanwhile, departmental disciplinary proceedings are initiated and



the matter was referred to the Tribunal for disciplinary proceedings and the Tribunal framed the charges against the petitioner and three others including the Town Planning Inspector. The following charges were framed against the accused officer:

**"Charge -1**

You(Accused Officers 1 to 4) while working in Devakottai Municipality, Sivagangai District, a Demand Draft No.970450 dated 07.11.2016 for Rs.9,500/- (Rupees Nine Thousand and Five Hundred only) was received from Tmt.Valarmathi as labour welfare fund and downloaded Building Plan Approval in No.16394, உ.ஆ.எண்.16132 and project approval on 08.11.2016 for the construction of house building by Tmt.Valarmathi. But in the above said orders, you have signed pre dated ie., on 18.10.2016 as if the orders were issued 21 days earlier.

**Charge-2**

You(Accused Officer) Thiru.Tamilselvam, Accused Officer-4, while working as F-1 Section Assistant, Devakottai Municipality, Sivagangai District failed to make entry of the building plan approval application Personal Register, building plan application Register and building plan Approval Register and not maintained the above registers properly.

Thus, you (Accused Officers 1 to 4) had failed to maintain absolute integrity and devotion to duty and conducted yourselves in an unbecoming manner and as such you have violated Rule 20(1) of Tamil Nadu Government Servants' Conduct Rules 1973."

There is no infirmity as such in respect of the allegations set out in the charge memorandum. The Tribunal for disciplinary proceedings has to conduct a trial in respect of the allegations set out in the charges.

3.The main ground raised by the petitioner is that he is not an accused in the criminal case and therefore, departmental disciplinary proceedings cannot be initiated. Secondly, it is contended that the petitioner is no way connected with the allegation of corruption and therefore, the charges issued by the Tribunal for disciplinary proceedings are untenable.

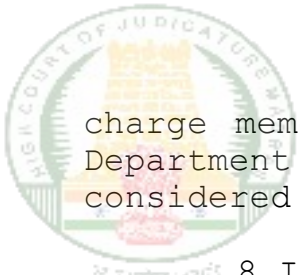
4.This Court is of the considered opinion that the departmental disciplinary proceedings and the criminal proceedings are distinct and different. Both can act simultaneously and therefore, in certain cases departmental proceedings are initiated, despite the fact that the official is not arrayed as an accused in the criminal proceedings. The criminal proceedings required a strict proof for convict a person, however, no further strict proof would require to punish the employee under the Discipline and Appeal Rules. Even preponderance of probabilities are sufficient to punish the



5. In the present case, there is a direct conflict against the Town Planning Inspector, F-1 Section Assistant. Therefore, a criminal case is registered by the Vigilance and Anti-Corruption, Sivagangai. In view of the fact that the petitioner has also signed the building plan approval which was pre-dated, the departmental disciplinary proceedings were initiated for lack of negligence and dereliction of duty, which falls under the Tamil Nadu Government Servants Conduct Rules. Therefore, this Court do not find any infirmity in the departmental disciplinary proceedings initiated against the petitioner. Thus, the petitioner has to establish the innocence by producing all documents and evidence before the Tribunal for disciplinary proceedings or otherwise. However, the petitioner has not raised any acceptable grounds for the purpose of quashing the charge memo.

6. 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.

7. 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.

8. In view of the facts and circumstances, the petitioner is at liberty to defend his case by availing the opportunity provided by the Tribunal for disciplinary proceedings in accordance with the rules in force. The Tribunal is also requested to expedite the trial and conclude the same, as expeditiously as possible.

9. With these observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2022

Sub Assistant Registrar(CS)

To

The Commissioner of  
Disciplinary Proceedings,  
5/1-B Vinayaka Nagar,  
Madurai-20.

+1 CC to M/s.SPL GP ( SR-13934[F] dated 23/03/2022 )

**W.P(MD) .No.826 of 2020**

**and**

**W.M.P(MD) No.608 of 2020**

**21.03.2022**

MGJ(06.04.2022) 4P 3C