



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.944 of 2022
and W.M.P. (MD)No.778 of 2022

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G.Ashokkumar

... Petitioner

versus

1. The Principal Secretary /
Transport Commissioner,
Chepauk,
Chennai - 5.

2. The Regional Transport Officer,
Pudukottai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the charge memo in R.No.29672/A4/2021, dated 03.01.2022 issued by the second respondent and quash the same.

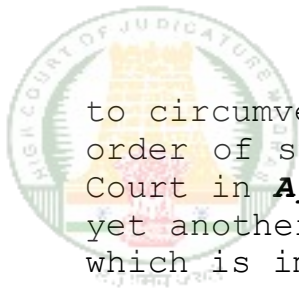
For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.P.T.Thiraviam,
Government Advocate

ORDER

This writ petition is filed against the charge memo dated 03.01.2022 issued by the second respondent.

2. Mr.T.S.Mohamed Mohideen, learned counsel appearing for the petitioner submits that on the very same set of facts, a charge memo was issued in Memo R.No.36573/B1/2019 dated 18.05.2020, against which, the petitioner challenged the same in W.P.(MD)No.8338 of 2020. Pending the enquiry, he was also placed under suspension vide order dated 23.01.2020. Therefore, he filed another writ petition in W.P.(MD)No.1655 of 2020 challenging the order of suspension dated 23.01.2020. This Court, vide order dated 29.11.2021, disposed of both the writ petitions, directing the respondents to proceed with the departmental proceedings, conclude the same and pass final orders within a period of three months. This Court has also directed that pending the enquiry, the respondents shall take a decision on the suspension order dated 23.01.2020 in the light of Judgment of the Hon'ble Apex Court in **Ajay Kumar Choudhary vs. Union of India, through its Secretary and another**, reported in **2015 2 SCC 291**. According to the learned counsel for the petitioner, in order



to circumvent the order of this Court and to avoid reconsidering the order of suspension, as per the ratio laid down by the Hon'ble Apex Court in **Ajay Kumar Choudhary's** case, the petitioner is slapped with yet another charge memo in Memo No.R.29672/A4/2021 dated 03.01.2022, which is impugned in this writ petition.

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3. Mr.Mohamed Mohideen, learned counsel for the petitioner further submits that the charges in the previous charge memo and this charge memo are one and the same. If a separate enquiry is conducted by appointing two different Enquiry Officers, it would affect his defence during the enquiry. Though this writ petition is filed praying for quashing the charge memo dated 03.01.2022, he confined his relief that the departmental proceedings may be conducted as a common enquiry by appointing the same Enquiry Officer.

4. Mr.P.T.Thiraviam, learned Government Advocate, who takes notice for the respondents, submits that the petitioner, who is working as Motor Vehicle Inspector, had committed several irregularities by tampering chassis number. One Krishnamoorthy has lodged a complaint against the petitioner, based on which, enquiry was conducted and they detected tampering of chassis number in some of the vehicles and therefore, the earlier charge memo dated 18.05.2021 was issued. Thereafter, some more materials have been collected against the petitioner. Hence, the present charge memo has been issued. According to the learned Government Advocate, the charges in both the charge memos are different and the charges in the present charge memo are related to different vehicles and it is not to circumvent the order of this Court. However, he fairly submits that the charges are similar in nature and therefore, there is no impediment for the Department to conduct a common enquiry by appointing the same Enquiry Officer.

5. This Court paid its anxious consideration to the rival submissions made.

6. The petitioner was already issued with a charge memo on 18.05.2020 and the present charge memo was issued on 03.01.2022. Though the learned Government Advocate submits that the charges in the present charge memo are different for tampering of chassis number in different vehicles, the issue involved in both the charges are one and the same. The learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents have accepted for conducting departmental proceedings as a common enquiry.

7. Therefore, this Court directs the respondents to conduct enquiry in the impugned charge memo dated 03.01.2022 together with the enquiry contemplated in the charge memo dated 18.05.2020 by the same Enquiry Officer and to conclude the same, within a period of three months from the date of receipt of a copy of this order.



8. With the above direction, the writ petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down
owing to COVID-19 pandemic, a web copy
of the order may be utilized for official purposes,
but, ensuring that the copy of the order that is
presented is the correct copy, shall be
the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary /
Transport Commissioner,
Chepauk,
Chennai - 5.

2. The Regional Transport Officer,
Pudukottai.

+1 CC to M/s.SPL.GP (SR-2364[F] dated 25/01/2022)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-2466[F] dated
25/01/2022)

W.P(MD)No.944 of 2022

24.01.2022

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TR(23.03.2022) 3P 5C