



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.02.2022
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.3334 of 2022

and

W.M.P.(MD) No.2919 of 2022

Sivaramakrishnan ... Petitioner

-vs-

1.The Tahsildar,
Tahsildar Office,
No.20, Karuppasamy Kovil Street,
Amaravathi Nagar,
Bodinayakanur-625 513.

2.The Director,
Directorate of Land Tax and Survey and Statistic,
Survey House, Chepauk, Chennai-600 005.

3.The Assistant Director,
Directorate of Land Tax and Survey and Statistic,
Survey House, Chepauk, Chennai-600 005.

4.The Regional Assistant Director,
Alwarpuram, Madurai-625 020. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to Memo bearing Na.Ka.Nee Aah.2/3485/2021 dated 25.01.2022 and to quash the same.

For Petitioner :Mr.Madhu Prakash

For Respondents :Mr.D.Sadiq Raja,
Additional Government Pleader

O R D E R

The Charge Memo issued in proceedings dated 25.01.2022 is under challenge in the present writ petition.

2.The learned counsel for the petitioner contended that the history of the charge is to be considered for the purpose of assailing the order impugned. The petitioner has answered to all the queries raised by the authorities and explained the same. In spite of that, the Charge Memo in the impugned proceedings dated 25.01.2022 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules came to be issued. The petitioner is in verge of promotion and therefore, the pendency of the charge would be a bar for grant of promotion. Thus, the facts are to be considered and accordingly, the order impugned is to be set aside.



3.The learned Additional Government Pleader objected the said contention by stating that the petitioner has challenged the Charge Memo and the history, background and facts are to be adjudicated by the competent authority during the course of enquiry and thus, the petitioner has to participate in the process of enquiry and establish his innocence or otherwise. In view of the fact that the petitioner has not raised any ground except the facts, the writ petition is to be rejected.

4.This Court is of the considered opinion that no writ needs to be entertained in respect of a Charge Memo. Charge Memo has been issued based on certain allegations and in the present case, no doubt the allegations are serious in nature. Annexure-II to the Charge Memo provides statement of allegations and imputations of misconduct. Annexure-III indicates list of documents. Annexure-IV provides witnesses to be examined. Thus, there is no infirmity in respect of the Charge Memo issued against the petitioner. The petitioner has narrated the facts and explanations with reference to the allegations raised in the Charge Memo. High Court cannot conduct an elaborate adjudication in respect of such disputed facts between the parties. All such adjudications are to be done with reference to the original documents and evidences including the oral evidences, if necessary. Thus, the petitioner has to participate in the process of enquiry for the purpose of defending his case in the manner provided under the rules. Contrarily, High Court cannot interfere or consider the material facts which all are disputed between the parties.

5.A Charge Memo is not liable to be quashed, as it 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 right of a person is 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.

6.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 to frame certain charges against the employee concerned. Mere framing of the charge 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 Department are 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 office. While so, certain



They are initiating action under the Conduct Rules and they are framing charges. Such framing of the charges would not cause any prejudice, nor provide any cause of action for the purpose of instituting a writ petition. Therefore, framing of the charge 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 High Court while entertaining a writ petition.

7. In view of the fact that the petitioner has not established any acceptable ground for the purpose of setting aside the Charge Memo, the petitioner has to participate in the process of enquiry in order to establish his case by availing the opportunity. No doubt, the authorities competent on initiation of departmental disciplinary proceedings, must ensure that the same is concluded in all respects as expeditiously as possible. Long pendency of the Charge Memo would also cause prejudice to the interest of the employee. Thus, the respondents are directed to proceed with the enquiry proceedings and conclude the same as expeditiously as possible by following the procedures as contemplated in the Discipline and Appeal Rules. The petitioner is directed to cooperate for the completion of the enquiry. In the event of any non-cooperation, the same may be recorded by the authorities in the proceedings itself and in such circumstances, the petitioner is not entitled to claim any relief on the ground of delay in disposing of the disciplinary proceedings.

8. With the above observations, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

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+1 CC to M/s.SPL GP (SR-8044[F] dated 23/02/2022)

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SS(05.03.2022) 4P 6C