



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6419 of 2022

W.M.P.(MD) Nos.5002 & 5003 of 2022

S.Chandrakala

.. Petitioner

Vs

1.The Principal District Judge,
Ramanathapuram District.

2.The Subordinate Judge,
Paramakudi, Ramanathapuram District.

3.The Chief Judicial Magistrate / Enquiry Officer,
Ramanathapuram District.

4.The District Munsif / Presiding Officer,
Ramanathapuram,
Ramanathapuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned charge memos issued upon the petitioner vide D.No.485 dated 02.09.2021 and 20.09.2021 by the second respondent and the consequential impugned proceedings of the initiation of departmental proceedings in D.E.No.2 of 2022 dated 18.02.2022 by the first respondent and quash the same as unsustainable, without jurisdiction.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.Mohideen Basha,
Standing Counsel

ORDER

(Made by PARESH UPADHYAY, J.)

1. Challenge in this petition is made to the charge memo issued to the writ petitioner dated 02.09.2021 and consequential appointment of the enquiry officer by the second respondent.



2. On 11.04.2022, the following order was passed:-

"1. Challenge in this petition is made to the charge memo issued to the writ petitioner dated 02.09.2021 and consequential appointment of the enquiry officer by the second respondent.

2. Learned Advocate for the petitioner has submitted that the petitioner had already tendered resignation on 31st October 2018 with effect from 1 st November 2018 and after scrutiny, the said resignation was accepted vide order dated 01.02.2019, however with effect from 01.11.2018. The said acceptance was by the Principal District Judge, Ramanathapuram.

3. The above would show prima facie that, not only the institution of disciplinary proceedings by the Subordinate Judge would require scrutiny about his competence, it may also require the circumstances leading to initiation of such a proceedings.

4. Learned Standing Counsel for respondents seeks time to respond to the above factual aspects.

5. The impugned proceedings shall remain stayed. 6. Mr.Mohideen Basha, learned Standing Counsel accepts notice on behalf of the respondents. 7. List on 21st April 2022."

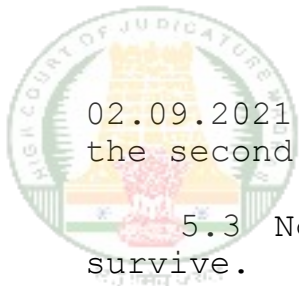
3. On behalf of the respondents, copies of the relevant documents are placed on record in the form of compilation dated 21.10.2022 where from we find that, there was letter from the Subordinate Judge to the higher authorities dated 25.02.2021 and the final orders from the administrative side dated 16.06.2021 wherein it was stated as a matter of record that, the petitioner had already resigned from the service of the Court. We find that, the direction by the High Court from the administrative side to take appropriate action in accordance with law, would necessarily mean if otherwise it is permissible under law.

4. It is not in disputed that, the petitioner had tendered resignation on 31.10.2018 with effect from 01.11.2018 and the said resignation was accepted vide order dated 01.02.2019, however with effect from 01.11.2018. Thus, the date on which the charge memo was issued to the petitioner, she was not in employment of any Court. Therefore the authority which issued charge memo could not be said to be issued by disciplinary authority and therefore it was without authority of law and thus illegal. Therefore the charge memo needs to be quashed and set aside. All subsequent actions therefore are held to be illegal.

5. For the above reasons, the following order is passed.

5.1 This writ petition is allowed.

5.2 The charge memo issued to the writ petitioner dated



02.09.2021 and consequential appointment of the enquiry officer of the second respondent is quashed and set aside.

5.3 No costs. Connected miscellaneous petitions would not survive.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssm

To

1.The Principal District Judge,
Ramanathapuram District.

2.The Subordinate Judge,
Paramakudi, Ramanathapuram District.

3.The Chief Judicial Magistrate / Enquiry Officer,
Ramanathapuram District.

4.The District Munsif / Presiding Officer,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-20671[F] dated
22/04/2022)

W.P(MD)No.6419 of 2022
21.04.2022

MGJ(28.04.2022) 3P 6C