



W.P(MD)No.7288 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7288 of 2020

and

W.M.P.(MD)Nos.6745 & 6746 of 2020

P.Kanagaraj @ Kannan

... Petitioner

Vs.

The District Manager,
TASMAC,
Madurai North,
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to call for the records relating to the impugned charge memo of the respondent in Letter/Memo No.1634/15/4 dated 12-18, signed on 17-12-18 and quash the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.H.Arumugam

ORDER

Heard the learned counsel on either side.



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2. The petitioner is employed as a contract employee in the capacity of Supervisor in one of the liquor outlet run by TASMAC limited. The petitioner questions the impugned charge memo which alleges that the petitioner has acquired assets disproportionate to his known source of income.

3. The learned standing counsel points out that the charge memo was issued way back in the year 2018. Enquiry was conducted and enquiry report has since been submitted. Show cause notice was issued on that basis. The petitioner has also given his explanation. When the final order is about to be passed, the present writ petition has been filed. He therefore submitted that the writ petition deserves to be dismissed.

4. Even though objections raised by the learned standing counsel are quite attractive, the contention putforth by the learned counsel appearing for the petitioner goes to the root of the matter.

5. The petitioner is charged with having contravened the relevant provisions of the Code of Prevention and Detection of Fraudulent Act. Admittedly, the said Conduct Rules came into force only in the year 2014. The acquisition of the assets in question was much prior to that. The conduct Rules



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cannot be retrospectively applied. That apart, the petitioner is only a contract employee. During the relevant time, when the asset was acquired, the model standing orders were in force. If at all, only those orders could have been invoked against the petitioner. But they pertained only to the official discharge of duty by the contract employees. The petitioner is not alleged to have caused any loss to the organization. No specific act of irregularity is pointed out. For having acquired an asset which is apparently disproportionate to the known source of income before the Code came into force, the petitioner cannot be proceeded against. The very issuance of the charge memo is without jurisdiction. That is why, even though there is delay on the part of the petitioner, I am still inclined to interfere. The impugned charge memo is quashed.

6. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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