



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.9015 & 9045 of 2021

and

W.M.P. (MD) Nos.6785, 6786, 6804 & 6805 of 2021

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W.P. (MD) No.9015 of 2021:

G.Dhanalakshmi

... Petitioner

vs.

The District Collector
Dindigul, Dindigul District

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for entire records relating to the impugned proceedings of the respondent herein vide R.O.C.No.6914/2020/RD.4, dated 16.11.2020 and quash the same as illegal and consequently to direct the respondent to reinstate the petitioner in service forthwith.

For Petitioner : Mr.Gladwin.X.

For Respondent : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

W.P. (MD) No.9045 of 2021:

G.Dhanalakshmi

... Petitioner

vs.

1.The District Collector
Dindigul, Dindigul District

2.The Personal Assistant (Development)
to District Collector
Dindigul, Dindigul District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records relating to the impugned charge memo issued by the first respondent in Na.Ka.No.6914/2020/R.D.4, dated 21.12.2020 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.Gladwin.X.

For Respondents : Mr.Veera.Kathiravan



Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

C O M M O N O R D E R

Since the issue involved in both cases are interlinked, they have been clubbed together, heard together and are being disposed of by this common order.

2. W.P.(MD) No.9045 of 2021 has been filed challenging the suspension order, dated 16.11.2020 and W.P.(MD) No.9045 of 2021 has been filed challenging the charge memo, dated 21.12.2020, issued by the District Collector, Dindigul.

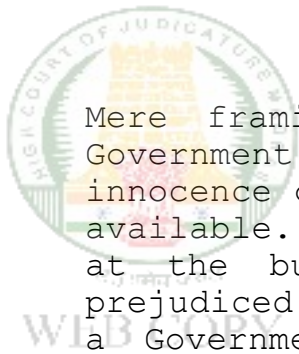
3. The petitioner was working as Panchayat Union Overseer and the impugned charge memo is challenged mainly on the ground that the petitioner is not a decision making authority and therefore, she cannot be held responsible in respect of the allegation of misappropriation of funds, fraud and other allegations.

4. The learned Additional Advocate General appearing for the respondents made a submission that the involvement of the petitioner into the alleged occurrence is also to be ascertained during the course of enquiry and at this stage, no opinion needs to be formed in respect of the allegations.

5. This Court is of the considered opinion that charge *per se* would not constitute a cause for moving a writ petition. It remains only as an allegation and such allegations are to be enquired into by affording opportunity to the delinquent officials. In the present case, there are allegations against the petitioner with reference to the misappropriation of funds and fraudulent activities. The petitioner may defend her case by availing the opportunity provided by the Authority competent, contrarily, High Court cannot quash the charge memo at this point of time as it requires an enquiry to be conducted in the manner known to law.

6. 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 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. The employee 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 submit further explanation, if any, along with documents and the respondents are bound to continue the departmental disciplinary proceedings initiated against the petitioner by following the procedures as contemplated and by affording due opportunity to the petitioner. The disciplinary proceedings are to be completed as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. The petitioner is directed to cooperate for early disposal of the enquiry proceedings. In the event of non-cooperation, the same shall be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled to claim any relief on the ground of delay in the disposal of the disciplinary proceedings.

9. In view of the fact that a direction has been issued to the respondents to complete the disciplinary proceedings within a period of six months and a criminal case has been registered against the petitioner in Crime No.1 of 2021, wherein she is arrayed as A4, no further adjudication is required as far as the writ petition challenging the order of suspension.

10. It is made clear that the subsistence allowance, if any, due to the petitioner, is to be paid till such time the petitioner is placed under suspension.



W.P.(MD) Nos.9015 & 9045 of 2021

11. With the above observations and directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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/ /2022

Sub Assistant Registrar(CS)

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To:

- 1.The District Collector,
Dindigul, Dindigul District.
- 2.The Personal Assistant (Development)
to District Collector,
Dindigul, Dindigul District.

W.P.(MD) Nos.9015 & 9045 of 2021
and

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SVS (CO)
KB(18.03.2022) 4P 3C