



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.12419 of 2019 and
W.M.P.(MD) Nos.9270 of 2019 & 2295 of 2020

Helen Edward

... Petitioner

-vs-

1.The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Nungambakkam, Chennai-600 006.

2.The Joint Director (Administration),
State Council of Educational Research
and Training Tamilnadu, College Road,
DPI Campus, Chennai-600 006.

3.The Principal,
District Institute of Education and
Training (DIET), DIET Kumulur,
Pallapuram, Tiruhcirappalli.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings Ney.Mu.Ka.No.216933/C1/2018 dated 18.03.2019 and the consequential impugned charge memo issued by the 2nd respondent in his proceedings Na.Ka.No.1335/A2/2019 dated 08.05.2019 and quash the same as illegal and arbitrary.

For Petitioner : Mr.B.Saravanan

For RR1 & 2 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

O R D E R

The order of the 1st respondent dated 18.03.2019 and the Charge Memo dated 08.05.2019 are under challenge in the present writ petition.

2.The petitioner was working as Lecturer in District Institute of Education and Training, DIET Kumulur, Pallapuram, Tiruchirappalli. On account of certain allegations, the Director,



Directorate of Government Examinations recommended for initiation of disciplinary proceedings vide proceedings dated 18.03.2019. Pursuant to the orders passed by the 1st respondent, the 2nd respondent framed the impugned Charge Memo vide proceedings dated 08.05.2019.

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3. 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 sheet 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 sheet by itself is not maintainable.

4. 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. The employee is duty bound to establish his/her 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/her service both inside and outside office. While so, certain allegations are brought to the notice of the competent authorities. They are initiating action under the Tamil Nadu Civil Services (Discipline and Appeal) 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.

5. In the present case, the charges against the writ petitioner are serious in nature. Therefore, this Court is of the opinion that the petitioner has to defend the allegations in the manner prescribed. In view of the facts and circumstances, the petitioner has to submit her explanation/defence along with the documents, if any, to establish her innocence or otherwise. The



authorities competent are bound to complete the disciplinary proceedings by providing opportunity to the writ petitioner. This being the factum, the respondents are directed to conclude the departmental disciplinary proceedings and pass final orders as expeditiously as possible.

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6. With the above observations and direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL SIDE)

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/ /2022

Sub Assistant Registrar (CS)

abr

To

1. The Director,
Directorate of Government Examinations,
DPI Campus, College Road,
Nungambakkam, Chennai-600 006.
2. The Joint Director (Administration),
State Council of Educational Research
and Training Tamilnadu,
College Road, DPI Campus, Chennai-600 006.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-5834[F] dated 14/02/2022)

W.P. (MD) No.12419 of 2019

11.02.2022

SMV (CO)

TR (22.02.2022) 3P 4C