



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2836 of 2019

and

W.M.P.(MD) No.2147 of 2019

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S.Selvarani

... Petitioner

vs.

1.The District Educational Officer
Tenkasi Educational District
Tenkasi
Thirunelveli District

2.The Block Educational Officer
Block Educational Officer
Kadayanallur
Thirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the records pertaining to the impugned charge memo in Na.Ka.No.086/A4/2019, dated01.2019 signed on 25.01.2019, on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.S.Louis

For Respondents : Mr.G.V.Vairam Santhosh

Additional Government Pleader

O R D E R

The charge memo dated 25.01.2019 issued by the first respondent is under challenge in this writ petition.

2. The petitioner is working as Headmistress in the Panchayat Union Primary School, Aavudiyalpuram, Tirunelveli District. A charge memo, dated 25.01.2019, under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued by the first respondent stating that the petitioner, without obtaining prior permission, purchased immovable properties and the same is in violation of the Rule 7 of the Tamil Nadu Government Servants' Conduct Rules, 1973.

3. The learned counsel for the petitioner states that with reference to the immovable properties stand in the name of the petitioner are concerned, the details were already furnished to the Department, which is also available in the typed set of papers filed



along with this writ petition. In view of the fact that the petitioner has already furnished the details of documents stand in her name, the very charge itself cannot be proceeded with. Further, the allegations contained in the impugned charge memo are vague and therefore, the impugned charge memo is liable to be set aside.

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4. In respect of the property details, which are all furnished, the petitioner states that she has obtained prior permission before purchase. However, the fact remains that the petitioner purchased immovable properties and in respect of the details provided in the charge memo, the petitioner claims that she has obtained prior permission from the competent Authority.

5. The charges framed against the petitioner reveal that the petitioner has not obtained prior permission for the purchase of immovable properties. Therefore, it is to be verified whether the petitioner has obtained prior permission or not with reference to the records available. Such verification or adjudication cannot be done by the High Courts in a writ proceedings. An enquiry is to be conducted for the purpose of verification of the documents and to ascertain whether the petitioner obtained prior permission before purchase of the property both detailed by the petitioner and in respect of any other properties, which have not been stated in the writ petition.

6. The power of judicial review of the High Courts under Article 226 of the Constitution of India is to ensure the process to which a decision is taken by the competent Authorities in consonance with the statutory provisions and the rules in force, but not the decision itself. The purpose of judicial review is to ensure that the individual receives fair treatment and to ensure that the Authority concerned, after according fair treatment, reaches the matter which is authorized by law to decide the conclusion and correct in the eyes of the Courts.

7. 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 party are infringed. The charge memo does not infringe the rights of a party. It is only when a final order imposing punishment or otherwise, it may have a cause of action. Hence, writ petition challenging charge memo by itself is not maintainable. However, it can be quashed on the ground that the issuing authority being not competent to issue the same. No doubt, in some very rare and exceptional cases, the High Court can quash a charge memo if it is found to be wholly without jurisdiction or for some other reason, if it is wholly illegal. Therefore, routine filing of writ petitions challenging the charge memo need not be entertained nor adjudication can be done with reference to the allegations set out in the charge memo on merits. This being the principles to be followed, the



allegations set out in the charge memo are to be adjudicated with reference to the documents and by verifying the official records of the respondents regarding prior permission obtained by the petitioner for the purchase of immovable properties.

8. Under these circumstances, the petitioner is at liberty to submit her explanation/objections along with the documents, if any, to the Disciplinary Authority, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the Disciplinary Authority shall conduct an enquiry by following the procedure as contemplated and dispose of the departmental disciplinary proceedings as expeditiously as possible.

9. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2022

Sub Assistant Registrar(CS)

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To:

1.The District Educational Officer,
Tenkasi Educational District,
Tenkasi, Thirunelveli District.

2.The Block Educational Officer,
Block Educational Officer,
Kadayanallur,
Thirunelveli District.

+1 CC to M/s.S.LOUIS, Advocate (SR-5293[F] dated 10/02/2022)

+1 CC to M/s.SPL GP (SR-5312[F] dated 10/02/2022)

W.P. (MD) No.2836 of 2019
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VR(CO)

KB(25.02.2022) 3P 5C