



WEB COPY

W.P.(MD) No.5223 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5223 of 2019

and

W.M.P. (MD) No.4172 of 2019

I.Iqbal Basha

... Petitioner

vs.

1.The Director of Rural Development
and Panchayat Raj
Panagal Building
Chennai-600 015

2.The District Collector
(Development Section)
Trichirappalli District
Trichy

3.The Commissioner
Panchayat Union
Mannachanallur
Trichy District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records in proceedings Na.Ka.Th.8/10302 / 2018 dated 07.12.2018 of the 2nd respondent and quash the same and direct the Respondent to grant special grade Scale of Pay with effect from 04.07.2018 and other increments for the completion of 20 years of service.

For Petitioner : Mr.M.S.Suresh Kumar

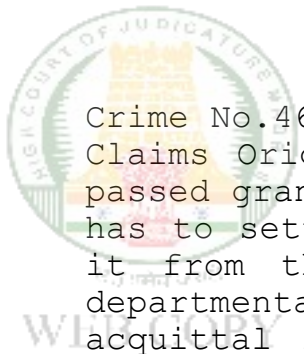
For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 & R2
No appearance for R3

O R D E R

The charge memo, dated 07.12.2018, issued by the second respondent, is under challenge in this writ petition.

2. The petitioner is working as Jeep Driver in the office of the third respondent. A criminal case was registered against him in

<https://hcservices.ecourts.gov.in/hcservices/>

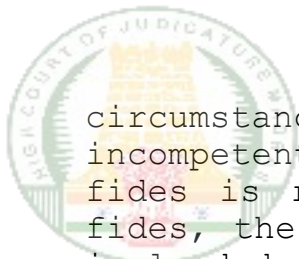


Crime No.46 of 2006 with reference to an accident. A Motor Accident Claims Original Petition was filed by the victim and an award was passed granting compensation. In such circumstances, the Government has to settle the award amount in favour of the victim and recover it from the employee concerned. Regarding misconduct, if any, departmental disciplinary proceedings may be initiated. Mere acquittal in a criminal case is not a ground to seek exoneration from the departmental disciplinary proceedings. But, the departmental disciplinary proceedings are to be proceeded with independently with reference to the documents and evidences available. The standard of proof required to convict a person under Criminal Law is not comparable with reference to the evidence required to punish an employee under the Discipline and Appeal Rules. Even preponderance of probabilities are enough to punish an employee under the Discipline and Appeal Rules. Therefore, acquittal in a criminal case is not the sole ground for exoneration from the departmental disciplinary proceedings.

3. The other grounds raised by the petitioner on merits cannot be adjudicated in a writ proceedings by the High Court. The adjudication is to be done before the Authority competent based on the documents and evidences.

4. A charge memo is not liable to be quashed as 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.

5. 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. He 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.

6. In view of the facts and circumstances of the case, the petitioner is at liberty to submit his explanation / objections along with documents, if any, and defend his case by availing the opportunities to be provided by the Authority concerned. The Disciplinary Authority, on initiation of the departmental disciplinary proceedings, must ensure that such proceedings are concluded as early as possible. Long pendency of the disciplinary proceedings will cause prejudice to the service rights of the employees as they may not get other service benefits, including the retirement benefits, during the pendency of the disciplinary proceedings.

7. Thus, the respondents are directed to proceed with the departmental disciplinary proceedings and conclude the same and pass final orders by affording an opportunity to the petitioner by following the procedures 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 disciplinary proceedings. In event of non-cooperation, the Disciplinary Authority shall record the same in the proceedings itself. In such circumstances, the petitioner is not entitled to seek any other relief on the ground of delay.

8. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

/ /2022

Sub Assistant Registrar(CS)

krk

To:

1.The Director of Rural Development
and Panchayat Raj,
Panagal Building,
Chennai-600 015.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The District Collector,
(Development Section),
Trichirappalli District,
Trichy.

3.The Commissioner
Panchayat Union
Mannachanallur
Trichy District

+1 CC to M/s.SPL GP (SR-6844[F] dated 17/02/2022)

+1 CC TO M/S.M.S.SURESH KUMAR, ADVOCATE (SR-6977[F] DATED
18/02/2022)

W.P. (MD) No.5223 of 2019
and
W.M.P. (MD) No.4172 of 2019
16.02.2022

MK/25.02.2022/4P/6C