

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13922 of 2022
and
W.M.P(MD)No.9906 of 2022

T.Rajendran

... Petitioner

Vs

1.The Inspector General of Registration,
O/o. The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Mandavelipakkam,
Raja Annamalaipuram,
Chennai.

2.The Deputy Inspector General of Registration,
O/o.The Deputy Inspector General of Registration,
Tirunelveli District.

3.The District Registrar,
O/o.The District Registrar,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of impugned charge memo in No.3605/A1/2020, dated 02.05.2022 issued by the second respondent against the petitioner and quash the same as illegal further directing the second respondent to provide consequent retirement benefits.

For Petitioner : Mr.G.Prabhu Rajadurai
For Mr.S.M.A.Jinnah

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined as Junior Assistant in Registration Department wayback in the year 1983. He was promoted as an Assistant in the year 1994. He was serving as a Sub Registrar in-charge in the year 2012. He reached the age of superannuation on 30.05.2022. Virtually, in the last month of his service, he was issued with the impugned charge memo dated 02.05.2022. The impugned charge Memo contains 3 articles of charge.

a) The first charge is that he had registered Document No.1933 of 2015 on the file of Sub Registrar Office, Nanguneri on 12.06.2015. The said document covered not only the property that fell within his territorial limits but also a property that fell within the limits of Vilathikulam, Sub Registrar Office. In such cases, the procedure is that “No Objection Certificate” is obtained from the other Sub Registrar. In this case, without obtaining such No Objection Certificate, the petitioner had gone ahead with the registration.

b) The second article of charge is that while registering the Document No.1023 of 2013 on the file of Sub Registrar Office, Nanguneri he had failed to obtain exemption letter under Rule 88(1) of the Registration Rules. Whenever a document is executed by a Court, the concerned Judge will not come to the Office of the Sub Registrar. In such case, an exemption letter will be circulated. In this case, the charge is that without obtaining the Exemption Certificate, the petitioner registered the document in question.

c) The third article of charge is that Document Nos.1991 of 2014 and 1276 of 2013 was registered by him on the file of Sub Registrar Office, Nanguneri in violation of the circulars issued by the Inspector General of Registration for preventing registration of fraudulent documents.

3. No doubt, procedural violations have been apparently committed by the writ petitioner while registering the aforementioned documents. But, they are minor in nature. It is firmly asserted by the writ petitioner and not rebutted by the respondents that no complaint was made by third parties or any aggrieved individuals over the registration of the aforementioned documents. That apart, there is no explanation forthcoming as to why the disciplinary authority should have waited for several years for even issuing the charge memo.

4. The learned Additional Government Pleader is justified in contending that on the ground of delay, a charge memo cannot be quashed. But then, there must be some explanation forthcoming from the disciplinary authority as to why there was delay in issuing the charge memo. In this case, no such explanation is forthcoming. My attention is drawn to G.O(Ms)No.111 Human Resources Management Department dated 11.10.2021. Clauses 4 and 7(i) of the said G.O are as follows:

“4.In the letter second read above, time limit have been set for the various prodedures to be followed in disciplinary proceedings so as to avoid delay in processing of disciplinary cases against the Government servants.

5. ...

6. ...

7. ...

(i) Before initiating disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the competent authorities should personally assess whether the charges / allegations against the Government servants warrant imposition of major penalties such as dismissal or removal from service. Because, proper application of rule reduces unnecessary delay in processing the disciplinary cases.”

5. The object and purpose of issuing the aforesaid Government Order is that the Government servant who is about to retire should not be unnecessarily vexed. A reading of the aforesaid Government Order also indicates that the policy of the Government is that only if such charges are grave and warrant issuance of major penalty, only then and then alone disciplinary action should be taken. In this case, the charges or acts of misconduct cannot be said to be grave by any standard. They are mere procedural lapses for which action could have been taken well in time. There is no explanation for the delay.

6. Considering the facts and circumstances, I am of the view that issuance of charge memo on the verge of the petitioner's retirement amounts to clear infringement of the writ petitioner's rights. My attention is drawn to the order dated 12.04.2022 made in ***W.P(MD)No.34197 of 2016 (B.Maximus Vs. State of Tamil Nadu and others)*** which holds as follows:

“31. The third and the primal issue is the aspect of inordinate delay in issuance of the impugned charge memo. On behalf of the petitioner, the learned counsel relied upon three decisions one each from the Hon'ble Supreme Court a Division Bench and a single Judge of this Court. The Courts have been taking consistent view that issuance of charge memorandum after delay of several years vitiates entire disciplinary action. This Court need not give any elaborate reasons for holding as such. The petitioner has far better claim on merits, as he was not

proceeded against for any grave irregularities or any act of misconduct touching upon corrupt practices. The allegation is the so called unauthorised absence for the period covered by interim orders of stay of transfer by the learned Tribunal.

32.

33. The learned counsel for the petitioner as stated above has relied upon three decisions and in those decisions several other decisions have been referred to. There cannot be a better case than the present one for application of the settled cast iron legal principle, namely long and inordinate unexplained delay in issuance of charge memo or completion of disciplinary proceedings is a grave and fatal legal infirmity, calling for interference of the Courts invariably. This Court is of the considered view that the petitioner herein is entitled to succeed on this ground also.”

7. A learned Judge of this Court after referring to a catena of decisions held that the Courts have interfered with the disciplinary action on the ground of delay alone. The learned Special Government Pleader would rely on the decision reported in **(1995) 2 SCC 570 (State of Punjab and others Vs. Chaman Lal Goyal)**. The said decision is clearly distinguishable on facts. In the said case, by the time the High Court quashed the charge memo, the enquiry was at an advanced stage. The Hon'ble Supreme Court was also not apprised as to whether the charges were grave or

not. In such circumstances, the Hon'ble Supreme Court held that the disciplinary proceedings should not have been quashed. The case on hand is completely different.

8. In this view of the matter, the impugned charge memo is quashed. This writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

08.09.2022

Index : Yes / No
Internet : Yes/ No
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