



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.14418 of 2021

and

W.M.P (MD) Nos.11350, 11354 and 17284 of 2021

M.Muneeswaran

... Petitioner

-vs-

1.The Inspector General of Police,
Southern Zone,
Race Course Colony,
Madurai-625002.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

3.The Joint Director of Health Services,
Medical and Rural Health Services Department,
Government Hospital Complex,
R.S.Road, Dindigul District.

4.The Regional Medical Officer,
Government Hospital,
Kodaikanal,
Dindigul District.

5.The Deputy Superintendent of Police,
Anti Land Grabbing Special Cell,
Dindigul, Dindigul District.

... Respondents

Prayer:- 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 issued by the second respondent herein vide proceedings in Tha.Pa.No.101.2020 dated 19.09.2020 quash the same.

For Petitioner : Mr.S.Jeyasingh

For Respondents : Mr.A.K.Manickam
Special Government Pleader

O R D E R

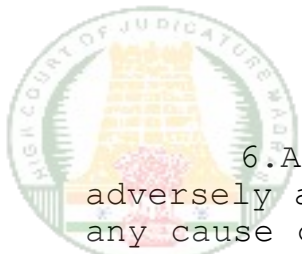
The charge memo dated 19.09.2020 issued under Rule 3 (B) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules is under challenge in the present writ petition.

2.The charges against the writ petitioner are with reference to certain allegations regarding drunken mode during duty hours and scolded the general public in filthy language. The petitioner is working as Head Constables and in a drunken mode on duty, he used abusive language against the public and committed an act of misconduct under the Conduct Rules. The allegations against the writ petitioner are serious and Enquiry Officer was already appointed.

3.The grievances of the writ petitioner is that the Doctor, who was present at the time of incident was not examined. However, this will not be a ground to quash the charge memo. Even if one witness is not examined during the enquiry proceedings and the witness has not appeared for examination, the same will not be a ground to quash the charge memo. Further the learned counsel for the petitioner made a submission that the duty register has not been produced during the enquiry for examination.

4.This Court is of the considered opinion that the learned counsel for the petitioner raises the grounds which are all to be considered in a criminal trial. The departmental disciplinary proceedings and criminal trial are distinct and different. The standard of proof required for a criminal case to convict the person, is entirely different and high standard is required. However, to punish an employee, no such strict proof is required. Even a moral conduct is sufficient to punish an employee and preponderance of probability is sufficient enough to punish an employee under the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules. Therefore, non-examination of one witness cannot be a ground to quash the entire charge memorandum and the petitioner is at liberty to take the said grounds before the officer competent, for the purpose of consideration.

5.This Court is of the considered opinion that the overall consideration is required and in such circumstances, the departmental disciplinary proceedings cannot be compared with the criminal trial and procedures to be followed under the criminal procedure code. Thus, the very ground raised by the petitioner for quashing the charge memorandum is untenable and the petitioner has to avail the opportunity to be provided by the authority and defend his case in the manner known to law and establish his innocent or otherwise.



6.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.

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. 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.

8.With the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

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/ /2022

Sub Assistant Registrar(CS)



To

- 1.The Inspector General of Police,
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- 5.The Deputy Superintendent of Police,
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Dindigul, Dindigul District.

+1 CC to M/s.S.JEYASINGH, Advocate (SR-13356[F] dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13873[F] dated 23/03/2022)

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TR(05.04.2022) 4P 8C