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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.03.2022
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD) No.17428 of 2021
and
W.M.P.(MD) Nos.14303 & 14304 of 2021

N.Meenakshi Sundaram ... Petitioner

vs.

1.The District Collector
Collectorate, Kokkirakulam
Tirunelveli District

2.The Additional Director of Town Panchayat
Tirunelveli Zone, Tirunelveli District

3.The Executive Officer
Kallidaikurichi Selection Grade Town Panchayat
Tirunelveli District

4.The Executive Officer
Ayikudi Selection Grade Town Panchayat
Tenkasi District

5.The Enquiry Officer cum Executive Officer
Cheranmahadevi Selection Grade Town Panchayat
Tirunelveli District

6.The District Employment Officer
Office of the District Employment Office
Inside the Collectorate Complex
Kokkirakulam, Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari after calling for the records from the third respondent in his impugned charge memo dated 09.07.2015 in Na.Ka.No.68-1/2015/A1 and the Enquiry Officer report dated 17.05.2017 issued by the fifth respondent and to quash the same as illegal, void and without any authority of law.

For Petitioner : Mr.Esakkiappan.A.M.

For Respondent R4 : Mr.M.Ramesh, Government Advocate

For Respondent R1 to R3,R5 & R6 : Mr.A.K.Manikkam
Spl. Government Pleader

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O R D E R

The charge memo, dated 09.07.2015 issued by the third respondent and the enquiry reported dated 17.05.2017, issued by the fifth respondent are under challenge in this writ petition.

2. The petitioner was appointed as Fitter and on account of an allegation of misuse of address through Computer and for production of bogus certificate, actions were initiated. The charges are specific and six charges were framed against the petitioner. In respect of the charges, the enquiry proceedings are concluded and the Enquiry Officer has submitted a report.

3. The learned counsel for the petitioner argued the facts and circumstances by elaborating that the petitioner is noway connected with the allegation of submission of bogus certificate. He has submitted a representation in this regard also. However, those facts and circumstances, which all are disputed, cannot be adjudicated in a writ petition under Article 226 of the Constitution of India. The Enquiry Officer conducted an elaborate enquiry and submitted his report. Therefore, the Disciplinary Authority has to take a final decision and to pass appropriate orders in the departmental disciplinary proceedings. No doubt, the materials available on record and the defence taken by the petitioner has to be considered. However, those facts cannot be considered nor a finding can be given in the present writ petition by this Court.

4. This Court is of the considered opinion that charge *per se* would not constitute a cause for moving a writ petition. It remains only as an allegation and such allegations are to be enquired into by affording opportunity to the delinquent officials.

5. 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.

6. 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

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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.

7. In the present case, though the petitioner has challenged the charge memo, the enquiry proceedings have already been concluded and a report has also been submitted by the Enquiry Officer. This being the factum, the petitioner has to wait for the final disposal of the departmental disciplinary proceedings and even thereafter, if the petitioner is aggrieved, he has to prefer an appeal under the relevant Rules for redressal of his grievance.

8. The practice of the litigants in approaching the High Court at each and every stage of the disciplinary proceedings cannot be encouraged and such practices are continuing in order to escape from the clutches of the disciplinary proceedings. Thus, the High Court is to be conscious even while admitting such writ petitions challenging the initiation of the departmental disciplinary proceedings or the charge memo. Such writ petitions may be entertained only if the Authority has committed any violation of the provisions of the Rules in force, but not otherwise.

9. With these observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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Office of the District Employment Office,
Inside the Collectorate Complex,
Kokkirakulam, Tirunelveli District.

+1 CC to M/s.A.M.ESAKKIAPPAN, Advocate (SR-13800[F] dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14327[F] dated 24/03/2022)

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MGJ(01.04.2022) 4P 9C

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