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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
W.P. (MD) Nos.17779 & 17886 of 2021
and
W,M.P. (MD) Nos.14653 & 14759 of 2021

S.Tamilselvan ...Petitioner in W.P. (MD) No.17779 of 2021
R.Janagaraj ...Petitioner in W.P. (MD) No.17886 of 2021

/Vs./

The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
(TANGEDC)), Maharaja Nagar,
Tirunelveli-627 011. ...Respondent in both petitions

PRAYER in W.P. (MD) No.17779 of 2021 :- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the impugned charge memo issued by the respondent in his proceedings Memo No.009193/289/AS-IV/A1/FDP/19 dated 18.07.2019 and to quash the same.

PRAYER in W.P. (MD) No.17886 of 2021 :- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the impugned charge memo issued by the respondent in his proceedings Memo No.011484/364/AS-IV/A1/FDP/19 dated 18.07.2019 and to quash the same.

For Petitioners : Mrs.P.Jesi Jeeva Priya, Advocate
For Respondents : Mr.S.Arivalagan, Advocate

COMMON ORDER

The charge memos dated 18.07.2019 issued against the writ petitioners are under challenge in the present writ petitions.

2. The learned counsel for the petitioners made a submission that the charges against the petitioners are only in respect of their negligence, which resulted in misappropriation of the funds of the TANGEDCO. It is clarified that the petitioners have not involved in the allegations of misappropriation, but the



allegation of negligence and lapses, dereliction of duty resulted in framing of charges.

3. Perusal of the impugned charge memos reveals that the charges are framed, which warrant enquiry. The statement of allegations and other particulars are also provided in the charge memos. Thus, there is no infirmity as such regarding the charge memorandums issued to the writ petitioners.

4. Charge per se would not constitute the cause for the purpose of moving a writ petition under Article 226 of the Constitution of India. Mere issuance of charges cannot be construed as infringement of service rights. Charges are to be enquired into and only after passing a final order in the disciplinary proceedings, the cause would arise for an employee to file an appeal or to approach the Court of law, as the case may be, in the manner known to law. While so, charge memos cannot be quashed by the Courts in a routine manner. A writ against the charge memo is entertainable only on limited grounds. If the charge memo is tainted with lack of mala fide or without jurisdiction, then alone a writ petition is entertainable, but not otherwise. Thus, the employee on receipt of charge memo has to submit an explanation, objections, if any, before participating in the disciplinary proceedings. The relevant documents and evidence are to be adjudicated by the Enquiry Officer during the course of enquiry.

5. In the present case, the writ petitioners have already participated in the process of enquiry and the learned Special Government Pleader also made a submission that enquiry proceedings had already been completed on 14.02.2020 and final orders are yet to be passed. In view of the fact that since no delinquents approach the High Court and obtain an order of stay, the proceedings are kept pending.

6. This Court is of the considered opinion that in view of the fact that the enquiry proceedings have already been concluded and in respect of other co-delinquent, this Court directed the authorities to revoke the order of suspension and allow the petitioner to participate in the enquiry and a direction was issued to complete the entire process in respect of charge memorandum issued against all the employees within a period of six weeks from the date of receipt of a copy of this order, no further consideration is required in respect of other grounds raised by the writ petitioner, which are all regarding the facts and thus to be adjudicated.

7. In such view of the matter, the respondents are directed to complete the enquiry in all respects and pass final orders



within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petitions stand disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS III)

/ /2022
Sub Assistant Registrar(CS)

RR

To

The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
(TANGEDC)), Maharaja Nagar,
Tirunelveli-627 011.

+2 CCs to M/s.P.JESSI JEEVA PRIYA, Advocate
(SR-12033[F] & 12034 dated 15/03/2022)

Order made in
W.P. (MD) Nos.17779
& 17886 of 2021
and
W,M.P. (MD) Nos.14653
& 14759 of 2021
Dated:14.03.2022

SP/28/03/2022/3P/4C