



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.19361 of 2021

and

WMP (MD) Nos.16086 and 16087 of 2021

B.Murugan

... Petitioner

Vs.

The Commander/the Additional
Director General of Police,
Tamil Nadu Armed Reserve Police
Keelpauk
Chennai

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records pertaining to the charge memo issued by the respondent vide his proceedings in த.பெ.எண் 34/2021 dated 07.10.2021 and quash the same.

For Petitioner : Mr.R.Anand

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

ORDER

Charge memo dated 07.10.2021 is under challenge in the presesnt writ petition.

2. The petitioner is working as Nayak in Tamil Nadu Armed Reserve Police. The charges against the writ petitioner is that he is having an illicit relationship with another woman and married her as second wife. Thus, the petitioner has committed an offence of bigamy, which is also a misconduct.

3. The learned counsel for the petitioner states that the allegations are false. However, it is for the petitioner to establish his innocence or otherwise before the competent authorities. This Court cannot conduct a roving enquiry in respect of such allegations, which require adjudication with reference to the evidences. Therefore, this Court is of an opinion that the petitioner has to defend his case in the manner known to law. The petitioner has not raised any acceptable ground for the purpose of



quashing the charge memo except by stating that he has not married any woman as a second wife.

4. A charge memo is not liable to be quashed as it 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 Department 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. The learned Special Government Pleader made a submission that during the pendency of the writ petition, enquiry was conducted and the enquiry report was also submitted. This being the factum, the charge memo cannot be quashed at this stage. Accordingly, the respondents are directed to complete the enquiry in all respects and pass final orders as expeditiously as possible.



7. With this observation, the writ petition stands disposed of.
No costs. Consequently connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To
The Commander/the Additional
Director General of Police,
Tamil Nadu Armed Reserve Police
Keelpauk
Chennai

+1 CC to M/s.SPL GP (SR-14335[F] dated 24/03/2022)

ORDER MADE IN
W.P. (MD) No.19361 of 2021
23.03.2022

PKP/05.04.2022/3P/3C