



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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Orders Reserved On 06.04.2022	Orders Pronounced On 13.04.2022
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W.P.(MD) No.23109 of 2019

and

W.M.P.(MD) No.19833 of 2019

A.Josephine Shanthi

.. Petitioner

-vs-

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai-6.

2. The District Chief Educational Officer,
Trichy District, Trichy.

3. The District Educational Officer,
Lalgudi, Trichy District.

4. The Block Educational Officer,
Lalgudi Block, Trichy District.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned charge memo issued by the 3rd respondent in Na.Ka.No.4404/A2/2018 dated 18.7.2019 and quash the same as illegal and consequently direct the respondents to regularize the service of the petitioner and confer her all service and monetary benefits in the light of the orders of this Court in W.P(MD) No.514 of 2012 and W.A.(MD) No.29 of 2015 within a time frame that may be stipulated by this Court.

For Petitioner : Mr.B.S.Meltiue

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

O R D E R

The charge memo issued by the 3rd respondent in proceedings dated 18.07.2019 is under challenge in the present writ petition.

2. The petitioner was appointed as Secondary Grade Teacher on compassionate ground on 16.02.1996. The petitioner was issued with

<https://hcservices.ecourts.gov.in/hcservices/>



a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The charges against the petitioner reveal that based on certain false informations, the petitioner submitted an application for compassionate appointment. At the time of appointment on compassionate ground, the other family members were in Government service and therefore, the petitioner's family was not in indigent circumstances. The source of income of the father of the writ petitioner was not placed before the authorities and those facts were suppressed by the writ petitioner for the purpose of securing appointment on compassionate ground. This apart, another charge has been framed that by submitting false facts before the Court, he instituted a case. There is no infirmity in respect of the impugned charge memo issued to the writ petitioner, as the list of documents and other particulars are elaborately stated in the charge memo.

3. The learned counsel for the petitioner mainly contended that the case of the writ petitioner was considered based on the orders passed by this Court in W.P.(MD) No.514 of 2012 and W.A.(MD) No.29 of 2015. This Court passed an order on 16.10.2014 directing the respondents to regularise the services of the petitioner with all consequential services and monetary benefits. However, perusal of the order of this Court reveals that the illegalities and suppression of facts for securing compassionate appointment have not elaborately been considered and therefore, the charges are to be independently faced by the writ petitioner. The prayer in W.P.(MD) No.514 of 2012 itself was for a direction to direct the respondents to regularise the services of the petitioner with all consequential benefits. The writ petition was considered based on the fact that the petitioner was appointed on compassionate grounds. However, the suppression made by the petitioner in the application and the false informations provided for securing employment had not been adjudicated in the writ petition. Therefore, the order passed in the writ petition cannot be an impediment for the competent authorities to proceed with the departmental disciplinary proceedings initiated for the alleged misconduct committed by the writ petitioner for securing the employment on compassionate grounds.

4. Even in cases where litigants furnished certain incorrect or false informations before the Court and secured orders and if the authorities found that the very basis of such appointment is fraudulent and secured by the litigant based on incorrect and false informations, then the authorities are empowered to initiate all appropriate actions in the manner known to the service rules.

5. Therefore, this Court is of the considered opinion that the charges are independent and the allegations against the writ petitioner are serious in nature. The direction issued by this Court for regularisation is noway connected with the allegations of

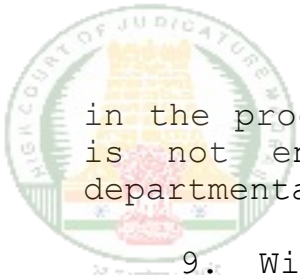


appointment on compassionate grounds. Therefore, the petitioner has to establish his innocence or otherwise only by participating in the process of enquiry through documents and evidences.

6. 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.

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. In view of the facts and circumstances, the petitioner is at liberty to defend his case by availing the opportunities to be provided by the disciplinary authority. The respondents are directed to proceed with the departmental disciplinary proceedings and conclude the same as expeditiously as possible by affording opportunity to the writ petitioner and pass final orders. The writ petitioner is directed to cooperate for the early disposal of the departmental disciplinary proceedings. In the event of non-cooperation on the part of the petitioner, the same may be recorded



in the proceedings itself and in such circumstances, the petitioner is not entitled to seek any relief on the ground that the departmental disciplinary proceedings are not disposed of.

9. With the above observations, this writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai-6.
2. The District Chief Educational Officer,
Trichy District, Trichy.
3. The District Educational Officer,
Lalgudi, Trichy District.
4. The Block Educational Officer,
Lalgudi Block, Trichy District.

+1 CC to M/s.B.S. MELTUE, Advocate (SR-18466[F] dated 13/04/2022)

+1 CC to M/s.SPL.GP. (SR-19010[F] dated 18/04/2022)

Order made in
W.P. (MD) No.23109 of 2019
13.04.2022

PKP/25.04.2022/4P/7C