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W.P.No.15417 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15417 of 2016
and W.M.P.No.13445 of 2016

K. Ramaswamy

... Petitioner

Vs.

The Superintendent of Police,
Tiruppur District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in C.No.F1/PR.24/2016/Tiruppur dated 02.03.2016 and quash the same.

For Petitioner : Mr.A. Sundaravadhanan

For Respondents : Mr.T. Chezhiyan,
Additional Government Pleader

ORDER

The petitioner herein, while serving as an Inspector of Police at Udumalai Police Station, had filed a Charge Sheet for an F.I.R. registered in Crime No.257 of 2001, to the effect that a van bearing No.TN 41 9746 had



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collided with a van bearing No.TN 33 X 2747. The charge against the petitioner now is that he had wrongly implicated the registration number on a vehicle which was not actually involved in the accident and thereby, compensation came to be awarded before the Motor Accident Claims Tribunal. This impugned Charge Memo dated 02.03.2016, is put under challenge in the present Writ Petition.

2. The learned counsel for the petitioner predominantly raised a ground stating that there is an inordinate delay in the initiation of the departmental proceedings. According to the petitioner, Charge Sheet came to be filed in 2001, has now been shown as a delinquency for the charges which was laid in the year 2016 and therefore, the Charge Memo itself, is liable to be set aside on the ground of delay.

3. Per contra, the learned Additional Government Pleader appearing for the respondent placed reliance on the averments in the counter-affidavit and submitted that owing to the implication of the wrong registration number of a vehicle which was not actually involved in the accident, compensation came to be awarded by the Tribunal and since the fault was on the part of the



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Delinquent Officer, charges came to be framed. He further submitted that in case, the petitioner is of the view that he is not guilty of the charges, it is always open to him to participate in the inquiry proceedings and therefore, no interference is required to the Charge Memo. The learned Additional Government Pleader also submitted that the delay in framing of the charges under the impugned Charge Memo, has been explained in detail in the counter-affidavit and therefore, the Charge Memo need not be set aside, solely on the ground of delay.

4. I have given careful consideration to the submissions made by the respective counsels.

5. As per the impugned Charge Memo, the petitioner had filed the Charge Sheet on 30.04.2001 and when the petitioner was due to retire on 31.08.2017, the impugned Charge Memo has been issued.

6. The authority of the respondent to initiate disciplinary proceedings after an inordinate delay, has been dealt with by the Hon'ble Supreme Court as well as by this Court in various decisions, wherein, it has been held that



such inordinate delay in initiation of the proceedings would cause serious prejudice to the Delinquent Officer and therefore, continuance of the disciplinary proceedings cannot be sustained.

7. In one such decision, in the case of '**P.V. Mahadevan Vs. Managing Director, T.N. Housing Board**' reported in '**(2005) 6 SCC 636**', the Hon'ble Supreme Court had dealt with a Charge Memo where the departmental inquiry was initiated after an inordinate delay of 10 years and accordingly, had quashed the Charge Memo on the ground of delay. The relevant portion of the order reads as follows:-

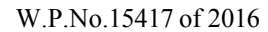
..... “Section 118 specifically provides for submission of the abstracts of the accounts at the end of every year and Section 119 relates to annual audit of accounts. These two statutory provisions have not been complied with at all. In the instant case the transaction took place in the year 1990. The expenditure ought to have been considered in the accounts of the succeeding year. In the instant case the audit report was ultimately released in the 1994-1995. The explanation offered for the delay in finalising the audit account cannot stand scrutiny in view of the above two provisions of the Tamil Nadu Act 17. It is now stated that the appellant has retired from service. There is also no acceptable explanation on the side of



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the respondent explaining the inordinate delay in initiating departmental disciplinary proceedings. Mr. R. Venkataramani, learned Senior counsel is appearing for the respondent. His submission that the period from the date of commission of the irregularities by the appellant to the date on which it came to the knowledge of the Housing Board cannot be reckoned for the purpose of ascertaining whether there was any delay on the part of the Board in initiating disciplinary proceedings against the appellant has no merit and force. The stand now taken by the respondent in this Court in the counter affidavit is not convincing and is only an afterthought to give some explanation for the delay.

Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. Keeping a higher government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a government employee should, therefore, be avoided not only in the interests of the government employee but in public interest and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry.



8. The aforesaid extract is self-explanatory. In the instant case also, the petitioner was due to retire on 31.08.2017, the Charge Memo was issued on 02.03.2016 and obviously, the proceedings may have been pending when he was due to retire.

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on 07.02.2014. Since there were some discrepancies in the draft Charge Memo, which was pointed out by the Superintendent of Police on 11.07.2014, the draft Charge Memo came to be corrected and the same was forwarded to the Inspector General of Police on 01.10.2014. The revised Charge Memo was thereafter sent to the Deputy Inspector General of Police, Coimbatore, for approval, which was forwarded to the Director General of Police on 29.01.2015. In this background, the final Charge Memo dated 02.03.2016 came to be passed.

10. Though the counter-affidavit seems to embark on the delay between 2012-16, there is no whisper as to what transpired from 2001 to 2012, when the petitioner is alleged to have filed a Charge Sheet in 2001 itself.

11. As laid down by the Hon'ble Supreme Court in *P.V. Mahadevan's case*, as well as other numerous similar decisions, such an inordinate delay would cause serious prejudice to the Delinquent Officer, more particularly, when he is due to retire during the pendency of such proceedings.



12. It is also seen that even when the draft Charge Memo has been prepared, the criminal case relating to the alleged bogus claim, had ended in an acquittal on 12.12.2012. By applying the ratio laid down in the decision of the Hon'ble Supreme Court, I am of the view that the delay of 15 years in the instant case, for initiating departmental proceedings, is inordinate and hence, the Charge Memo itself cannot be sustained.

13. For all the foregoing reasons, the impugned Charge Memo dated 02.03.2016, is hereby quashed. Consequently, there shall be a direction to the respondent herein, to forthwith pass orders, notionally retiring the petitioner from the date of his superannuation and thereby, disburse all the retirement benefits including his pensionary benefits. Such order shall be passed atleast within a period four (4) weeks from the date of receipt of a copy of this order.

14. At this juncture, the learned counsel for the petitioner submitted that in view of the framing of the charges, the petitioner was deprived of a promotion and his juniors were promoted.



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15. In case, the petitioner is of the view that he would be entitled for such promotion, liberty is hereby granted to him, to make an appropriate application to the respondent, seeking for such notional promotion and on receipt of such application, the respondents shall consider the same, in the light of this order and pass appropriate orders in accordance with law, within a period of four (4) weeks from the date of such application.

16. With the above directions, this Writ Petition stands allowed. No costs. Connected miscellaneous petition is closed.

02.01.2023

Speaking order
Index: Yes
Internet: Yes

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To

The Superintendent of Police,
Tiruppur District.



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M.S.RAMESH,J.

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