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W.P. No.11937 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 12.01.2023

CORAM:

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**W.P. No.11937 of 2022 and W.M.P.**  
**Nos.11352 and 11357 of 2022**

P.Kubendran

... Petitioner

VS.

1.The Additional Chief Secretary to  
the Government of Tamil Nadu,  
Municipal Administration and  
Water Supply Department,  
Secretariat,  
Chennai – 600 009.

2.The Director of Municipal Administration,  
No.75, Santhome High Road,  
Raja Annamalaipuram,  
Chennai – 600 028.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India,  
to issue a Writ of Certiorari calling for the records relating to the  
impugned Charge Memo issued by the second respondent in  
Roc.No.12378/2008/V2 dated 01.04.2022 and quash the same.

For petitioner : Mr.D.R.Arunkumar

For respondents : Mr.R.U.Dinesh Rajkumar,  
Additional Government Pleader



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## **ORDER**

**WEB COPY** Challenging the impugned Charge Memo dated 01.04.2022 issued by the second respondent in Roc.No.12378/2008/V2, this writ petition has been filed.

2.The petitioner has challenged the impugned charge memo dated 01.04.2022 issued to him under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules 1955 on the following grounds:

a)There is an inordinate delay on the part of the respondents to initiate disciplinary proceedings against the petitioner;

b)The alleged incident happened in the year 2001;

c)Earlier charge memo was issued for the alleged incident on 29.08.2009 under Rule 17(a) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules 1955;

d)An explanation was submitted by the petitioner to Rule 17(a) charge on 30.11.2009 and thereafter, no further steps were taken by the respondents in the disciplinary proceedings;

e)The petitioner sought for promotion by his representation dated



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21.01.2022;

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f)On receipt of the representation of the petitioner dated 21.01.2022 seeking for promotion, the respondents have issued the charge memo dated 01.04.2022;

g)The charge memo issued under Rule 17(a) in the year 2009 against the petitioner is identical to the charge memo dated 01.04.2022, which is challenged in this writ petition.

h)The only difference is that Rule 17(a) charge has been converted to Rule 17(b) charge under the impugned charge memo.

3.A counter affidavit has been filed by the second respondent denying the contentions of the petitioner. According to them, there is no inordinate delay in initiating disciplinary proceedings against the petitioner. Only after receiving the explanation from the petitioner to the Rule 17(a) charge, they have initiated disciplinary proceedings by issuing the impugned charge memo dated 01.04.2022.

4.As seen from the above dates and events, it is clear that there is



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an inordinate delay in the initiation of the disciplinary proceedings against the petitioner and there is also an inordinate delay in completion of the disciplinary proceedings by the respondents. The alleged incident happened in the year 2001, while the petitioner was working as an Assistant Commissioner in the Madurai City Municipal Corporation. Even though the incident happened in the year 2001, a charge memo was issued under Rule 17(a) to the petitioner only in the year 2009, which is also not in dispute. An explanation was also submitted by the petitioner to the said charge memo immediately on receipt of the same. However, it has taken thirteen long years for the respondents to convert the Rule 17(a) charge to one under Rule 17(B). The petitioner had also given a representation on 21.01.2022 seeking for promotion. But on receipt of the said request, the respondents have issued the impugned charge memo dated 01.04.2022.

5.From the foregoing facts, it is clear that there is an inordinate delay on the part of the respondents to initiate disciplinary proceedings against the petitioner and concluding the same.



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6.The judgments relied upon by the learned counsel for the petitioner, namely, a)P.V.Mahadevan vs. Managing Director, Tamil Nadu Housing Board reported in 2005 (6) SCC 636; b)K.G.Thulasirangan vs. The Secretary to Government, Revenue Department and others reported in 2018 (2) Writ Law Report 190; c)The Principal Secretary to Government Handlooms vs. M.Rathakrishnan reported in MANU/TN/1561/2022, dealing with the question of inordinate delay in completing the disciplinary proceedings, support the case of the petitioner.

7.Learned counsel for the petitioner has also relied upon a Single Bench decision of this Court dated 11.04.2022 in the case of V.Balasubramanian vs. Government of Tamil Nadu and others reported in MANU/TN/2673/2022 in respect of his contention that for the same set of allegations, Rule 17(a) charge cannot be converted to Rule 17(b) charge. The said decision squarely applies to the facts of the case on hand also as for the same set of allegations, after a lapse of several years, 17(a) charge has been converted to one under Rule 17(b).



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**ABDUL QUDDHOSE, J.**

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8.For the foregoing reasons, the impugned charge memo dated 01.04.2022 is hereby quashed and this writ petition is allowed. Consequently, connected W.M.Ps stand closed. No costs.

**12.01.2023**

Index: Yes/No

vga

To

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the Government of Tamil Nadu,  
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