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W.P.Nos.20792 & 7110 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.20792 & 7110 of 2023 &

WMP.Nos.20171 & 7189 of 2023

M.G.Gowthaman

... Petitioner in both WPs

Vs

The Managing Director,
TUCS Limited, No.154, Big Street,
Triplicane, Chennai – 600 005.

...Respondents in W.P.No.
20792 of 2023

1.The Managing Director,
TUCS Limited, No.154, Big Street,
Triplicane, Chennai – 600 005.

2. The State Rep. by The Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Alandur, Chennai – 600 016.

3. The State of Tamil Nadu Rep. by
The Additional Chief Secretary to Government,
Department of Co-operation, food and Consumer Protection,



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Secretariat, Chennai – 600 009.

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[R3 suo out impleaded vide Order dated 28.04.2023
made in W.P.No.7110/2023 by PDAJ]

...Respondents in W.P.No.
7110 of 2023

Prayer in W.P.No.20792 of 2023 :- Writ Petitions filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records comprised in the charge memo made in Na.Ka.No. 525 / 2021/ E2 dated 26.6.2023 issued by the respondent and quash the same and consequentially direct the respondent forthwith pay all retirement and monetary benefits within a time frame as may be fixed by this Court.

Prayer in W.P.No.7110 of 2023 :- Writ Petitions filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records comprised in Na. Ka. No.826 / 23 / E2 dated 30.1.2023 on the file of the first respondent and quash the same and consequentially direct the first respondent to allow the petitioner to retire from service on the date of his superannuation i.e.31.1.2023 by providing all retirement and monetary benefits within a time frame as may be fixed by this Court.

For Petitioners : Mr.P.K.Harinath Babu

For Respondents : Mr.KKarthick Jeganath
for respondent in W.P.No.20792 of 2023
& R1 in W.P.No.7110 of 2023



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Mr.P.Baladhandayutham,
Special Government Pleader – R2
in W.P.No.7110 of 2023

Mr.B.Vijay,
Additional Government Pleader – R3
in W.P.No.7110 of 2023

COMMON ORDER

The Writ Petition in W.P.No.20792 of 2023 has been filed challenging the charge memo dated 26.6.2023 issued by the respondent and consequentially direct the respondent to pay all retirement and monetary benefits within a time frame as may be fixed by this Court.

2. The Writ Petition in W.P.No.7110 of 2023 has been filed challenging the proceedings of the first respondent dated 30.1.2023 on and consequentially direct the first respondent to allow the petitioner to retire from service on the date of his superannuation, i.e., 31.1.2023 by providing all retirement and monetary benefits within a time frame as may be fixed by this Court.



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3. The charge memo is challenged mainly on the ground that it is a second charge memo and the Vigilance and Anti Corruption Department searched in the Head Office of the respondent and recovered a sum of Rs.25,000/- as unaccounted cash. Based on that, it appears that the investigation also proceeded by the Vigilance and Anti Corruption officials. However, while filing final report before the Special Court for Cases under the Prevention of Corruption Act, Chennai, closure report has been filed as against the petitioner. However, the departmental proceedings continued as against the petitioner and the charge memo has been issued on 05.08.2021 and explanation has also been submitted by the writ petitioner. Not satisfied with the explanation, the enquiry officer has been appointed and enquiry has been proceeded. The enquiry officer submitted a report holding that the charges against the petitioner has not been made out. Based on the said enquiry report, recommendation also appears to have been made by the respondent to revisit the suspension of the writ petitioner. When the matter stood thus, now a second charge memo has been issued for the same allegation on 26.06.2023 for seizure



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of certain amount from the office premises. The same has been challenged in this Writ Petition.

4. It is the contention of the learned counsel for the petitioner that when the earlier enquiry report has already been filed before the respondent, the respondent ought have taken a decision based on the said enquiry report and the second charge memo cannot be issued.

5. The learned Government Pleader appearing for the respondents submitted that since the first charge memo was issued without following procedure, the first charge memo has been withdrawn and second departmental proceedings has been initiated and the same cannot be questioned at this stage.

6. I have perused the entire materials. At the outset this Court is unable to countenance the contention of the learned Government Advocate in this regard. Though certain cash has been recovered from the office, a case has been registered not only against the petitioner but



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also against others and in the criminal case after thorough investigation, the DVAC has filed a negative report as against the petitioner and sanction has also not been accorded to prosecute the petitioner in this matter. Further, departmental proceedings, when proceeded against the petitioner, the enquiry officer also pointed out after enquiry in the enquiry report on 16.05.2022 that the charges have not been made out against the petitioner. These facts have not been disputed. Moreover, these facts have been admitted by the respondents in their counter filed before the Tribunal in PSA.No.3 of 2022. When the disciplinary proceedings have already been completed and culminated into findings discharging the petitioner from all the charges, any action to be taken shall be based on such report. The disciplinary authority may concur with the report or take a different view after considering the report. However, instead of conducting such an exercise, fresh charge memo has been issued on 26.06.2023, which, according to this Court, cannot be sustained in the eye of law and the same is liable to quash. The respondent is directed to take a decision on the basis of the enquiry report already filed within a period of one month from the date of receipt



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of a copy of the Order.

7. As far as W.P.No.7110 of 2023 is concerned, the respondents, after taking decision on the earlier report filed by the disciplinary authority and disburse the terminal benefits to the petitioner as per law within a period of one month thereafter.

8. With the above directions, W.P.No.20792 of 2023 is allowed and the charge memo dated 26.06.2023 issued by the respondent is quashed. Accordingly, W.P.No.7110 of 2023 is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

30.08.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,



W.P.Nos.20792 & 7110 of 2023

1. The Managing Director,
TUCS Limited, No.154, Big Street,
Triplicane, Chennai – 600 005.
2. The Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Alandur, Chennai – 600 016.
3. The Additional Chief Secretary to Government,
Department of Co-operation, food and Consumer Protection,
Secretariat, Chennai – 600 009.



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N.SATHISH KUMAR, J.

VTC

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