IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 19.09.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR**

**W.P.No.29881 of 2022**
**and**
**W.M.P.No.29266 of 2022**

Thangavel ... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by the Principal Secretary to Government,
Revenue and Disaster Management Department,
St. George Fort, Chennai.

2.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chennai – 600 005. ... Respondents

**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 in Ser.2(2)/36820-1/2021, dated 21.08.2022, issued by the 2nd respondent and quash the same.

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| For Petitioner | : | Mr.P.H.Arvind Pandiyan<br>Senior Counsel<br>for Mr.D.Venkatachalam |
| For Respondents | : | Mr.P.Baladhandayutham<br>Special Government Pleader |

**O R D E R**

This writ petition has been filed challenging the charge-memo issued by the 2nd respondent, dated 21.08.2022, against the petitioner, for the following charges :

*"**Charge No.1** :*

*That Thiru.D.Thangavel, while working as the Revenue Divisional Officer, Paramakudi, Ramanathapuram District, even though knows that he is the leave sanctioning authority for the Tahsildar and it is not necessary to send the leave petition addressing the Revenue Divisional Officer, Paramakudi to the District Collector, had particularly sent the leave petition on 03.01.2020 to the District Collector, Ramanathapuram with dishonest intention for record purpose which was created and submitted as if dated on 2.1.2020 by Thiru.H.Satheesh Kumar, Tahsildar, Paramakudi Taluk.*

***Charge No.2 :***

*That the said Thiru.D.Thangavel, Personal Assistant (General) to the Collector, Pudukottai / formerly Revenue Divisional Officer, Paramakudi Taluk, Ramanathapuram District has failed to maintain absolute integrity and devotion to duty with dishonest motive."*

2.The crux of the charges against the petitioner is that, though he is competent to sanction Casual Leave to the Tahsildar, he has received the application for Casual Leave from one Mr.H.Satheesh Kumar, Tahsildar, and forwarded the same to the District Collector, thereby, he is charged under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Further, it is indicated that though the leave application was given on 03.01.2020, it is shown as if it was received on 02.01.2020.

3.It is the contention of the petitioner that one Mr.H.Satheesh Kumar, Tahsildar, submitted application for Casual Leave for one day, i.e., on 03.01.2020 and permission leave for two days, i.e., on 04.01.2020 and 05.01.2020 and the same was entered in the Office records. Thereafter, the petitioner came to know that an FIR has been registered against the said Mr.H.Satheesh Kumar and due to the same, he may take further leave beyond 05.01.2020. Hence, the petitioner forwarded the leave letter of Mr.H.Satheesh Kumar to the District Collector for alternative arrangements. Thereafter, the impugned charge-memo came to be issued against the petitioner for the charges as extracted *supra*. Challenging the same, the present writ petition has been filed.

4.Learned Senior Counsel appearing for the petitioner would submit that the charge-memo has been issued under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, only in order to prevent the petitioner's name from being included in the temporary panel of District Revenue Officers for the year 2022-2023. The learned Senior Counsel would further contend that the petitioner is no way connected to the charge and only to defer his further promotion, the impugned charge-memo has been issued. Therefore, the learned Senior Counsel prays that the impugned charge-memo is liable to be set aside.

5.In the counter affidavit, it is the stand of the respondents that, while the petitioner was in service as Revenue Divisional Officer, Paramakudi, one Mr.H.Satheesh Kumar, Tahsildar, submitted a Casual Leave application to the petitioner. However, though the petitioner was very well aware that he is the leave sanctioning authority, he has forwarded the leave application to the District Collector, Ramanathapuram, just for record purpose. Meanwhile, an FIR came to be registered against the said Tahsildar on 03.01.2020 at 07.45 hours in trap proceedings. Along with the said Tahsildar, one M.G.Ramkumar Babu, Revenue

Inspector was also proceeded with by the Directorate of Vigilance and Anti-Corruption. Hence, it is the contention of the respondents that, in order to help the said Tahsildar, the Casual Leave application has been created for record purposes. Therefore, the charge memo has been issued against the petitioner.

6.Heard the learned counsel on either side and perused the entire materials available on record.

7.Normally, Courts will not interfere with the charge-memo unless the same is issued without jurisdiction or issued with *mala fide* intention or for some other purposes. Though it is stated in the counter affidavit that the charge-memo has been issued only in order to help one of the accused officer in a criminal case, such a reason has been introduced for the first time only in the counter affidavit. However, even while framing the charges, that was not the reason assigned by the respondents in the charge-memo. Therefore, in the absence of any reason assigned in the impugned charge-memo, the same cannot be defended by introducing a new reason at a later point of time in the counter affidavit.

8.Be that as it may, the crux of the charges is that, though the petitioner is the leave sanctioning authority to sanction Casual Leave to the Tahsildar, the petitioner has forwarded the Casual Leave application submitted by the Tahsildar to the District Collector. It is relevant to note that, even assuming that such a lapse has been committed by the petitioner, this Court is of the view that the same will not warrant a charge or disciplinary proceedings under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Further, the letter of the Chief Secretary to Government, dated 11.03.2023, produced before this Court, clearly indicates that the name of the petitioner has been deferred from being included in the temporary panel of District Revenue Officers for the year 2022-2023 due to the pendency of charges framed under 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Further, it is relevant to note that, though the alleged lapse is said to have been committed on 03.01.2020, the impugned charge-memo has been issued against the petitioner on 21.08.2022, after a lapse of 2 ½ years. This, in fact, substantiate the contention that the impugned charge-memo has been issued for some other purposes, but not for any departmental lapses.

9.Insofar as the Casual Leave application submitted by the Tahsildar is concerned, on a perusal of the same, it is relevant to note that not only Casual Leave for one day, but also permission has been sought to leave the Headquarters. It is relevant to note that, when a person seeks permission to leave the Headquarters, normally such permission is granted by the superior officers, not by the Unit Head. In such view of the matter, merely because the application of the Tahsildar has been forwarded to the superior officer, the same cannot be held to be a serious misconduct warranting disciplinary proceedings.

10.In view of the above discussion, the time of alleged lapse, delay in issuing the impugned charge-memo after two years, that too, under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, and subsequent deferral of the name of the petitioner from the panel of District Revenue Officers for the year 2022-2023 citing the pendency of the charge under Section 17(b), make it clear that the entire charge-memo is a motivated one. Therefore, this Court is inclined to quash the same, and accordingly, the impugned charge-memo dated 21.08.2022 stands quashed.

11.As a sequel, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**19.09.2023**

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order

To

1.The Principal Secretary to Government,
Government of Tamil Nadu,
Revenue and Disaster Management Department,
St. George Fort, Chennai.

2.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chennai – 600 005.

**N. SATHISH KUMAR, J.**

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