



W.P.(MD)No.14531 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.14531 of 2021

and

W.M.P.(MD) No.11476 of 2021

D.Rajasekaran

... Petitioner

Vs.

The Principal District Judge,
Thanjavur, (Disciplinary Authority),
Thanjavur District.

...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the memorandum of the learned Principal District Judge, Thanjavur/respondent herein in D.No. 02/2019 dated 17.12.2019 and quash the same.

For Petitioner : Mr.R.Paranjothi

For Respondent : Mr.Mohideen Basha



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W.P.(MD)No.14531 of 2021

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The charge memo issued under Rule 17(b) of the Tamil Nadu Government Servant (Discipline and Appeal) Rules issued in D.P.No.2 of 2019, dated 17.12.2019, is under challenge in the present writ proceedings.

2. The petitioner was appointed as Copyis by the Principal District Judge, Thanjavur, on 21.10.1991. He was holding the post of Assistant in the Additional District Court at Kumbakonam. Learned Principal District Judge received an information that the petitioner had borrowed a loan amount of Rs.50,000/- from the Central Co-operative Bank Ltd., at Thanjavur in the year 2004. Based on the complaint, the respondent issued the charge memo under Rule 17(b) of Tamil Nadu Government Servant (Discipline and Appeal) Rules.

3. A charge memo can be challenged by way of writ proceedings only on certain limited grounds i.e., if the charge memo has been issued by an incompetent authority having no jurisdiction or tainted with the allegations of malafides. In all



W.P.(MD)No.14531 of 2021

other circumstances the delinquent officer is expected to submit his explanations and defend the charges framed against him by availing the opportunities to be provided to him by the disciplinary authority as per the rules.

4. In the present case, the grounds raised relating to merits cannot be adjudicated by the High Court under Article 226 of the Constitution of India. Though we are not inclined to appreciate the grounds for quashing the charge memo, we found that the charge memo issued under Rule 17(b) may not be appropriate, since the allegations are not falling under the grave charges. Certain routine lapses, including obtaining prior permission to get a loan from a Bank does not warrant a charge under Rule 17(b). Instead the disciplinary authority may frame charge under Rule 17(a) for the purpose of imposing minor penalty. In the present case, even if the charges are proved, the major penalty is not warranted and therefore, we are of the considered opinion that the charges under Rule 17(a) would be appropriate. However, we are not inclined to convert the 17(b) charges as 17(a) since the disciplinary authority is empowered to proceed with the charge already framed and consider this aspect, while imposing the punishment in the event the charges being proved. However, the petitioner has not established any acceptable ground for the purpose of quashing the charges and therefore, the



W.P.(MD)No.14531 of 2021

respondent shall proceed based on the impugned charges, conclude the proceedings and pass final orders as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order.

5. With these observations and directions, the Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

(S.M.S., J.) & (V.L.N., J.)
06.12.2023

NCC : Yes / No
Index : Yes / No
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To

The Principal District Judge,
Thoothukudi District,
Thoothukudi.



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W.P.(MD)No.14531 of 2021

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AND

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W.P.(MD)No.14531 of 2021

06.12.2023