



W.P.(MD).No.20150 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.08.2023

PRONOUNCED ON : 27.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.20150 of 2022

and

W.M.P(MD)Nos.14647 & 15301 of 2022

G.Sethuraman

... Petitioner

Vs.

The District Collector,
Pudukkottai District,
Pudukkottai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned charge memo of the respondent in Na.Ka.P.No.3/7203/2016 (எனக்கே) dated 29.07.2022 and quash the same as illegal and unlawful.

For Petitioner : Mr.J.Pooventhra Rajan

For Respondent : Mr.M.Prakash
Additional Government Pleader



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ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorari, to quash the impugned charge memo of the respondent, dated 29.07.2022.

2.Heard Mr.J.Pooventhera Rajan, learned counsel appearing for the petitioner and Mr.M.Prakash, learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

3.The petitioner is presently working as a Rural Welfare Officer-Grade I in Thirumayam Panchayat Union, Pudukkottai District. The respondent issued a charge memo dated 07.09.2016 for three counts of charges against the petitioner especially that the petitioner failed to maintain proper records pertaining to the houses constructed by two beneficiaries under Indira Awas Yojana Scheme in Senganam Panchayat, Avudayarkovil Panchayat Union during the years 2007-2008 and 2009-2010. The petitioner claims that all the charges levelled against him in the charge memo dated 07.09.2016 were untrue and at that relevant point of time, he did not work in Senganam



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namely (i) Basement completion (ii) Lintel concrete completion (iii) Roof concrete completion and (iv) plastering work completion. All the payments would be disbursed by the Panchayat President concerned to the beneficiaries through cheques only. The entire construction process of the house would be supervised and monitored by the Overseers, Block Development Officers and Project Directors concerned. The ministerial staffs of a Panchayat Union do not have any role in the Indira Awas Yojana Scheme. The petitioner is a ministerial staff and without considering this aspect, the respondent issued a charge memo, dated 07.09.2016 to the petitioner after a long delay of 8 years. The petitioner submitted a detailed reply to the charge memo denying all the charges levelled against him. However, the respondent had initially appointed an enquiry officer to conduct an enquiry on the allegations levelled against the petitioner.

5. Challenging the said charge memo, dated 07.09.2016, the petitioner filed a Writ Petition before this Court in WP(MD)No. 22737 of 2016 and the said Writ Petition was disposed of on 17.02.2021, directing the respondent to complete the disciplinary proceedings within a period of three months from the date of receipt of a copy of that order. Thereafter, the respondent vide order dated 4/20



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16.07.2021 appointed one Devikarani, Personal Assistant (NMP) to Collector, Pudukottai as enquiry officer to conduct enquiry as against the petitioner. The enquiry officer vide urgent memo dated 15.09.2021 required the petitioner to appear for enquiry on 17.09.2021. The petitioner promptly appeared on that day along with a detailed reply denying the charges levelled against him. However, nothing transpired even after that and hence, the petitioner filed a contempt petition before this Court in Cont.P(MD)No.1113 of 2022. During the pendency of the said contempt petition, the respondent submitted a letter dated 01.08.2022 addressed to the Special Government Pleader stating that the enquiry officer had submitted her enquiry report on 11.11.2021.

6.It is pertinent to mention here that the Director of Vigilance and Anti Corruption Department, Chennai observed that there were procedural irregularities in the aforesaid disciplinary proceedings conducted by Devikaranai, Personal Assistant to the District Collector, Pudukottai against the petitioner. In view of the same, vide respondent's order dated 29.07.2022 viz., earlier charge-memo and the appointment of enquiry officer, was cancelled. However, in the said order of cancellation of the charge memo, there was no clause to the effect that the cancellation of the earlier charge memo



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and appointment of enquiry officer was without prejudice to the issuance of a fresh charge memo and initiating de novo disciplinary proceedings against the petitioner. Simultaneously, a new charge memo was prepared and sent to the Director of Vigilance and Anti Corruption Department, Chennai and on being meted by him, a new charge was issued on the same day of cancellation of the previous charge memo ie., on 29.07.2022. While the earlier charge memo was issued for three counts of charges, in the new charge memo dated 29.07.2023 all the aforesaid three charges were clubbed together and framed as a single charge. Assailing the same, this Writ Petition came to be filed.

7.The learned Additional Government Pleader appearing for the respondent has filed a vacate stay petition along with a counter-affidavit and submitted that the contempt petition in Cont.P(MD)No. 1113 of 2023 was closed by this Court only on the submission of the respondent that a de novo enquiry was ordered by issuing revised charge memo and hence the present Writ Petition by way of challenging the revised charge memo is not sustainable and is liable to be dismissed inlimine. He further submitted that only as ordered by this Court in CrI.O.P(MD)No.2967 of 2014, dated 28.03.2014, a

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complaint was lodged before the Directorate of Vigilance and Anti Corruption, Chennai on 28.04.2014. As ordered by the Director, a preliminary enquiry was taken up and after conducting a thorough probe into the corruption in the construction of houses under Indira Awas Yojana Scheme in Avadaiyarkovil Panchayat Union and on completion of the preliminary enquiry, the Superintendent of Police, Vigilance and Anti Corruption, South Chennai, vide his letter dated 16.06.2016 directed to take criminal/enquiry by the Tribunal for disciplinary proceeding/departmental action against 8 erring officials of Avaduyarkovil Panchayat Union, Pudukottai District, including the petitioner for the manipulation and creation of bogus documents under Indira Awas Yojana Scheme for the year 2007-2008 and 2008-2009 in releasing of funds to three beneficiaries namely Karuppan, Angappan and Amutha, without construction of houses and misappropriating Government money amounting to Rs.1,29,000/- and for improper maintenance of files and records.

8.The learned Special Government Pleader appearing for the respondent categorically submitted that the petitioner was serving as Junior Assistant at Avadaiyarkovil Panchayat Union during the relevant period of time and he was responsible for not maintaining the



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records and registers properly, which paved the way for corruption practices. Hence, only as ordered by the Director of Rural Development and Panchayat Raj, Chennai, vide letter, dated 18.08.2016, disciplinary proceedings were initiated and charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 were framed against the petitioner on 07.09.2016. Though the petitioner gave his explanation immediately on 17.10.2016, he filed a Writ Petition in W.P(MD)No.22737 of 2016 with a prayer to quash the charge memo. Since this Court, by order, dated 17.02.2021 directed the respondent to complete the proceedings in three months, an enquiry officer was appointed on 16.07.2021 to conduct enquiry.

9.The learned Special Government Pleader appearing for the respondent fairly conceded that certain instructions were received from the Directorate of Vigilance and Anti-Corruption, Chennai regarding the procedural infirmities in the conduct of the departmental enquiry against the petitioner. Only because of the said instructions received from the Directorate of Vigilance and Anti-Corruption, Chennai, on 01.03.2022, the previous charge memo was cancelled on 29.07.2022. Thereafter, a revised charge memo was served on the petitioner on 08.08.2022 for which the petitioner sought 15 days time



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to offer his explanation, but without submitting an explanation, he filed this Writ Petition. Hence, the respondent is prevented from appointing an enquiry officer to proceed with the departmental proceedings to reach its logical conclusion. The respondent along with 7 other delinquents should not be permitted to go scot-free without answering to the delinquency attributed against him, which will have disastrous consequences in conducting cases/enquiry of the co-delinquents involved in the delinquency for which the Directorate of Vigilance and Anti Corruption has taken up preliminary enquiry as ordered by this Court. The delay is only due to administrative reasons and considering the fact that the entire exercise has been initiated on the directions of this Court in CrI.O.P(MD)No.2967 of 2014, acknowledging the fact that the delay is exclusively due to administrative reasons and the learned Special Government Pleader pressed for dismissal of the Writ Petition.

10.However, a critical perusal of the records would reveal various interesting facts. The proceedings of the respondent, dated 29.07.2022 by which the disciplinary proceedings initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, were cancelled in view of the letter received from the Directorate of Vigilance and Anti-Corruption Department, Chennai,

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pointing out certain irregularities in the enquiry conducted by Devikarani, Personal Assistant to the Collector, Pudukottai. However, it has been pointed out in the said proceedings that the first charge memo is cancelled only on the instructions of the Directorate of Vigilance and Anti-Corruption, Chennai, to issue a fresh charge memo pointing out the procedural infirmities in the conduct of the departmental enquiry by Devikarani, Personal Assistant to the District Collector, Pudukottai against the petitioner. Hence, without any delay, on the same day a fresh charge memo dated 29.07.2022 was issued and the same was served on the petitioner on 08.08.2022. But a perusal of the charge memo would reveal that there is no change in any of the charges levelled in the new charge memo dated 29.07.2022, but the respondent has clubbed all three counts of charges levelled in the withdrawn charge memo, dated 07.09.2016 into a single charge in the new charge memo, dated 29.07.2022.

11.That apart, the specific allegation against the petitioner is that during the years 2007-2008 and 2009-2010, the petitioner acted in an unconcerned manner in properly maintaining the records pertaining to the Indira Awas Yojana scheme in Senganam Panchayat, Avudayarkovil Panchayat Union, thereby causing hindrance to the

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office administration by which failing to discharge his duties under Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules, 1973.

12.The petitioner was appointed as a Junior Assistant vide appointment order, dated 21.05.2009 of the proceedings of the P.A to the District Collector, Pudukottai at Avudayarkovil Panchayat Union and he joined the post with effect from 16.02.2010. However, he immediately intimated to the Block Development Officer of Avudaiyarkovil that the previous incumbent one R.Balasubramaniam refrained from handing over the relevant registers and files to the petitioner and thereby requested the Block Development Officer to direct the previous incumbent to hand over the responsibilities ledgers, registers and files pertaining to the years 2008-2009 to the petitioner. The entire details of the files and registers which were taken up to his custody voluntarily were also detailed by the petitioner to the Block Development Officer concerned. Thereafter, he was promoted to the post of Accountant in Thirumayam Panchayat Union vide proceedings of the Block Development Officer, Avudaiyar Kovil, dated 29.07.2012 and he was relieved from the post of Junior Assistant on the same day. On being relieved from the said post, on 16.10.2012 the petitioner handed over all the ledgers, documents, files and registers to

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N.Srinivasan before taking up of his promoted post. No doubt, the entire disciplinary proceedings, even at the first instance, have been initiated by the respondent only on the basis of the preliminary enquiry conducted by the Directorate of Vigilance and Anti Corruption Department, Chennai and instruction of the Directorate of Vigilance and Anti Corruption Department, Chennai to take departmental action against the petitioner and 7 others vide proceedings, dated 16.06.2016.

13.It is needless to say that the Directorate of Vigilance and Anti Corruption Department, Chennai conducted a preliminary enquiry only on the basis of the order of this Court in CrI.O.P(MD)No. 2967 of 2014. Though the petitioner has claimed that he did not work during the period 2007-2008 and 2009-2010, a perusal of the records would reveal that he had joined duty as Junior Assistant with effect from 01.06.2009 and had been in the service of the concerned Panchayat Union till the date on which he was promoted to the post of Accountant of Thirumayam Panchayat Union on 27.09.2012.



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14.It is the strong contention of the petitioner that he did not work during the period of occurrence in the alleged charges levelled, ie., 2007-2010. However, it is clear that he certainly worked in the concerned Panchayat during the period 2009 to 2012. It is further contended by the petitioner that the first charge memo itself came to be issued after a prolonged delay of 8 years ie., on 07.09.2016 from the date of the alleged occurrence and the impugned second charge memo was issued after a prolonged delay of 14 years, ie., on 29.07.2022. It is the further contention of the petitioner that the impugned charge memo is a replica of the earlier charge memo containing the same set of charges which were withdrawn by the respondent.

15.The learned counsel appearing for the petitioner relied upon the Judgment of the Hon'ble Supreme Court in the case of **State of Punjab and others Vs. Chaman Lal Goyal** reported in **(1995) 2 SCC 570** and also relied upon another Judgment of this Court in **B.Loganathan Vs. The Union of India and others** reported in **2000 (3) CTC 351**, wherein a charge memo was challenged on the basis of unexplained inordinate delay and categorically submitted that



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unexplained inordinate delay itself would constitute a denial of reasonable opportunity to the petitioner to defend himself and it would amount to a violation of principles of natural justice and hence, the charge memo has to be struck down on that ground alone.

16.But, it is necessary to take into account that the entire exercise has emanated from the order passed by this Court in Crl.O.P(MD)No.2697 of 2014, dated 28.03.2014. Only on the basis of the order passed by this Court, the Directorate of Vigilance and Anti Corruption Department, Chennai conducted a preliminary enquiry and directed to take departmental action against the petitioner and 7 others. Only in accordance with the said directions, the departmental action was initiated by framing charges, appointing the enquiry officer, on submission of enquiry report by sending the enquiry report to the Directorate of Vigilance and Anti Corruption Department, Chennai. Since the entire departmental proceeding was commenced on the direction of this Court, the Directorate of Vigilance and Anti Corruption Department, Chennai was fully monitoring each and every action taken up by the respondent. Since the departmental enquiry conducted by Devikarani, P.A to the District Collector, Pudukkottai was not conducted in the presence of the Directorate of Vigilance and Anti Corruption



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Department, Chennai, fresh enquiry was directed to be conducted by the letter, dated 01.03.2022. Hence, the fresh charge memo was framed and the same has been clearly mentioned even in the cancellation order of the enquiry dated 29.07.2012 passed by the respondent. However, none of the grounds taken up by the petitioner attacking the issuance of the second charge memo after a period of 14 years from the date of occurrence of the incidents in the charges levelled would come to the rescue of the petitioner. Indira Awas Yojana Scheme is a welfare scheme for providing homes to the homeless which is being implemented by the State Government. The same is carried out across the State in various Panchayat Unions and implemented in each and every Panchayat of the State and the same is supervised and managed by the Overseers, Block Development Officer and Project Directors with the support of the various ministerial staff and Panchayat President.

17. When the said scheme was implemented in Senganam Panchayat, Avudayarakovil Panchayat Union during the years 2007-2008 and 2009-2010 by manipulation and creation of bogus documents even without construction of houses, the officers of various levels together misappropriated Government money when the same

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was brought to the notice of this Court. This Court, by order, dated 28.03.2014 in CrI.O.P(MD)No.2967 of 2014, has directed the Directorate of Vigilance and Anti Corruption Department, Chennai, dated 28.04.2014 to probe into the corruption in the construction of houses in Indira Awas Yojana scheme in Avudaiyar Kovil Panchayat Union.

18.The rest is already discussed in detail supra. 8 officers including the petitioner were found to have indulged in manipulation and creation of bogus documents swindling an amount of Rs. 1,29,000/- without construction of houses to three beneficiaries by improperly maintaining files and records. Though the charge levelled against the petitioner is not maintaining records and registers promptly at that relevant point of time paving the way for corruption practices, while implementing a Welfare scheme, the role of each and every Government official is significant in implementing the scheme flawlessly to the benefit of the needy people. Any irregularity and corruption in such schemes would defeat the ultimate purpose of welfare schemes in a democratic Country like India. Hence, marking the significance of undoing corruption and corrupt practices in the implementation of the welfare schemes in the State, this Court is not



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inclined to interfere with the impugned charge memo issued by the respondent, dated 29.07.2022.

19.That apart, the Hon'ble Supreme Court in the case of ***Union of India Vs. Kunishetty Satyanarayana*** reported in **(2006) 12 SCC 28** has already held that writ jurisdiction is discretionary jurisdiction and hence, such discretion under Article 226 should not be ordinarily exercised by quashing a charge sheet. No doubt, in some very rare and exceptional cases, the High Court can quash a charge sheet if it sounds to be wholly without jurisdiction or for some other reason if it is wholly legal.

20.But this is a case of corruption and there is a need to create a deep alarm in the minds and consciousness of each and every Government servant that he is bound to honesty and propriety in the exercise of discharging his official duty and any deficiency in the said exercise would bring him untold misery and prompt disciplinary proceedings and criminal proceedings.



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21.Considering the greatest sacrifices and contributions of the leaders of the past of the Indian democracy, this Court is not inclined to interfere with the disciplinary proceedings, dated 29.07.2022 initiated on the instruction of the Directorate of Vigilance and Anti Corruption, Chennai as against the petitioner, by the order passed by this Court in Crl.O.P(MD)No.2967 of 2014, dated 28.03.2014.

22.Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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To

The District Collector,
Pudukkottai District,
Pudukkottai.



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L.VICTORIA GOWRI, J.

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