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W.P.(MD)No.5384 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.5384 of 2017

and

W.M.P.(MD)Nos.4311 of 2017

and 13884 of 2020

D.Pushparaja

... Petitioner

vs.

1.The District Forest Officer,
Kanyakumari Forest Division,
Nagercoil, Kanyakumari District.

2.The Divisional Manager,
Arasu Rubber Corporation,
Keeriparai Division,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned charge memo issued by 2nd respondent,



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vide Ka.No.3331/12/Va, dated 23.01.2017 and to quash the same as illegal and consequently, to direct the 2nd respondent to relieve the petitioner from all the untenable charges and may give the petitioner all service benefits.

For Petitioner	: Mr.K.P.Narayanakumar
For R1	: Mr.K.S.Selvaganesan Additional Government Pleader
For R2	: Mr.A.K.Manikkam

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned charge memo dated 23.01.2017 issued by 2nd respondent as illegal and consequently, to direct the 2nd respondent to relieve the petitioner from all the untenable charges and may give the petitioner all service benefits.

2. The contention of the petitioner is that for the same allegation, the respondents issued a charge memo under 17(a), dated 11.07.2013, for



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which the petitioner has submitted an explanation. The respondents have not passed any orders. Thereafter, after a lapse of 4 ½ years, for the same set of charges, the respondents have issued a second show cause notice under 17(b).

3.The contention of the petitioner is that for the same set of facts, a second show cause notice is not maintainable. Moreover, the second show cause notice is issued after a lapse of 4 ½ years and is a belated show cause notice.

4. This Court is of the considered opinion that the contention of the petitioner is absolutely right that a second show cause notice cannot be issued for the same cause of action. Moreover, the show cause notice is liable to be quashed as belated. Therefore, the impugned order is quashed. The respondents are directed to grant all the consequential



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benefits to the petitioner within a period of eight weeks from the date of receipt of a copy of this order, if the same was not paid already.

5. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

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Internet : Yes

NCC : Yes / No

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To

The District Forest Officer,
Kanniyakumari Forest Division,
Nagercoil, Kanniyakumari District.



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S.SRIMATHY, J

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