



W.P.(MD)No.25245 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.25245 of 2022
and
W.M.P.(MD)No.19333 of 2022
and
W.M.P.(MD)No.4043 of 2023

K.Ramesh Kannan

... Petitioner

Vs.

1.The District Collector,
Collectorate,
Sivagangai District.

2.The Commissioner,
Tribunal For Disciplinary Proceedings,
No. 5/1-B, Vinayaga Nagar,
Madurai District 20.

3.The Commissioner,
Rural Development and Panchayat Raj Department,
Chepauk, Chennai

... Respondents

*(R3 is suo motu impleaded vide order
dated 13.06.2023 in W.P.(MD)No.25245
of 2022 by GRSJ)*

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the Impugned Charge Memo in Na.Ka.Qu.A1/13078/2014(1) dated



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27.02.2015 on the file of the Respondent No.1 and consequential Impugned Charge Memo in Roc.No.A1/87/2021(TDP.10/2021) dated 07.02.2022 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate for R1.

ORDER

Heard the learned counsel for the writ petitioner and the learned Government Advocate for the first respondent.

2.The petitioner questions the impugned charge memo dated 27.02.2015 issued by the first respondent and the charges framed by the second respondent / Tribunal on 07.02.2022 on the grounds mentioned in the affidavit filed in support of the writ petition.

3.The first respondent had filed counter affidavit and the learned Government Advocate took me through its contents. He pressed for dismissal of the writ petition.



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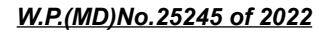
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22.12.2009-????? ?????? ?????????? ?????? ?????? ?????????? ?????????????? ?????????? ??
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1973-?? ????????? ?????? ????????? ?????????, ???
 20(1)-???? ???? ????????? ???? ????????? ?????????????, ??????? ????
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5.The charge framed by the Tribunal is as follows:-

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????? ?????? 1 ???? ?????????????, ??????? ?????? ??????? ??????
 (???) ????? ?????? 2 ???? ????? ?????, ??? ????? ??????? ??????? (??????)
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 2012-2013 ??? ????????????? ??? ????????????? ??????? ?????? ?????????? 76
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6.A comparison of the two would clearly indicate that they are founded on the same set of facts. The cause of action is one and the same. Of course, as pointed out by the learned Government Advocate, the petitioner came under adverse notice of Vigilance and Anti-Corruption and they had conducted an investigation in the matter. The Vigilance department came to the conclusion that the matter is not fit for criminal prosecution. Therefore, they referred it to the Tribunal for disciplinary proceedings. Rule 8(a)(i) of the Tamil Nadu Civil Services (Disciplinary Proceedings) Tribunal Rules, 1955 is as follows:-

“8. (a)(i) Notwithstanding anything contained in rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the following procedure shall be adopted by the Tribunal in conducting enquiries in cases of corruption and also in cases of corruption combined with other charges. As soon as the records relating to allegations of corruption or of corruption combined with other charges against a Government servant are received, the Tribunal shall frame appropriate charges, communicate them to the person charged together with list of witnesses likely to be examined in respect of each of the charges, copies of the complaints made by the complainants, copies of statements taken from the witnesses which form the basis on which the Tribunal has framed the charge or charges against him and with information as



to the date and place of enquiry. At the enquiry, oral and documentary evidence shall be first adduced by the prosecution and person charged shall be entitled to cross-examine the prosecution witnesses and to explain any documents produced by the prosecution.

The person charged shall thereafter, within the time allowed by the Tribunal, file a written statement of his defence along with a list of witnesses whom he wishes to examine, stating the points on which he proposes to examine each of them, provided that he need not so specify the points for examination in his own case, when he wishes to examine himself as well. The oral and documentary evidence on his side shall then be adduced. After the enquiry is completed, the Tribunal shall hear the Prosecutor for Disciplinary Proceedings and the person charged or permit them to file the written briefs of their respective cases, if they so desire. A copy of the written brief, if submitted by the Prosecutor for Disciplinary Proceedings, shall be served on the person charged, before he is required to submit his reply written brief. The Tribunal shall, as far as possible, observe the basic rules of evidence relating to the examination of witnesses and the marking of documents.”

7. But a government employee cannot be vexed in two proceedings on the same cause of action. This is because the nature of both the proceedings is one and the same. A government employee can be dealt with departmentally and also prosecuted before the criminal Court. He



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cannot be departmentally dealt with and also proceed against by the Tribunal for disciplinary proceeding at the same time. Such a course of action is impressible. Therefore, charge framed by the second respondent is alone quashed. The charge memo dated 27.02.2015 is left intact. It is true that the enquiry report in respect of the charge memo dated 27.02.2015 is in favour of the petitioner. It is not necessarily binding on the disciplinary authority. The disciplinary authority can dissent from the said report also. I, therefore, leave open the said issue. However, the disciplinary authority cannot keep the proceeding pending indefinitely. The occurrence dates back to the year 2012 – 2013. More than a decade has elapsed. Therefore, the disciplinary authority / third respondent is directed to take a call in the matter. Final order in respect of the charge memo dated 27.02.2015 shall be passed on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. I make it clear that it is open to the disciplinary authority to take into account all the relevant materials. Merely because, I quashed the charge framed by the Tribunal, that does not mean that the disciplinary authority cannot look into the same. The only relief I am granting is that the petitioner shall not be vexed twice departmentally on the same cause of action. It is in this view of the matter, I quash the



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charge framed by the second respondent. The power, authority and discretion of the disciplinary authority is left entirely open. The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

13.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN,J.

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