



W.P. No.1712 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.08.2024

Pronounced on : 29.11. 2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.1712 of 2006

G.Shaankari

... Petitioner

Vs.

1.The Director of Prosecution
22, Rajamuthiah Salai
Periamet, Chennai 3.

2.The Deputy Director of Prosecution
Trichy Region
21 Anaikatti Maidan
Bheemanagar, Trichy.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the respondents in connection with the impugned charge memo issued by the first respondent in C.No.2884/DOP/A4/2005 dated 29.07.2005 and quash the same.

For Petitioner : Mr.S.Siva Kumar for
Mr.P.P.Shanmuga Sundaram

For Respondents : Mr.Vadivelu Deenadayalan
Additional Government Pleader.



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ORDER

This writ petition has been filed seeking to quash the charge memo issued by the 1st respondent, bearing C.No.2884/DOP/A4/2005 dated 29.07.2005, against the petitioner initiating the disciplinary proceedings under Rule 17 (b) of Tamil Nadu Civil Services (Discipline and Appeal Rules), 1955 on the ground that the charges are vague and incapable of submitting proper reply.

2. The petitioner herein was initially appointed as Assistant Public Prosecutor Grade-II in the year 1980 and thereafter, she was promoted to the post of Assistant Public Prosecutor Grade-I and subsequently to the post of Assistant Director of Prosecution. While so, the impugned charge memo came to be issued containing eight charges in Annexure-I and corresponding statement of allegation in Annexure-II. The said charges and the corresponding statement of allegation is extracted herein in a tabular form for the sake of convenience:



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S.No	Charges	Statement of Allegation
1.	Highly condemnable, reprehensible and corrupt act in demanding and articles worth Rs.300/- to Rs.400/- for furnishing legal opinion/draft final reports in Kudavasal PS Cr. Nos. 472/99, 281/03, 386/02, 322/02, 111/03 and 31/03	Tr.G.Jayaraman, Sub-Inspector of Police, Kudavasal PS has handed over CD files in Kudavasal P.S. Cr. Nos.472/99, 322/02, 386/02, 31/03, 111/03 and 281/03 to Tmt. G.Shaankari for furnishing draft final report. Tmt.G.Shaankari failed to give any acknowledgment for the receipt of CD files and failed to furnish the draft final reports within reasonable time. After considerable delay Tmt.G.Shaankari furnished the draft final reports that too after collecting some articles worth Rs.300 to Rs.400 for each case from the concerned police. Hence the first count of charge.
2.	Highly condemnable, reprehensible and corrupt act in having demanded Rs.250/- per case for furnishing opinion in Nannilam PS. Cr.Nos. 50/03 and 51/03 and failure to furnish opinion when her demands were not met.	Tr.N.Rajendran, Inspector of Police, Nannilam P.S handed over CD files in Nannilam P.S Cr.Nos.50/03 and 51/03 to Tmt. G.Shaankari for furnishing opinion. As her demand of Rs.250/- for furnishing opinion to each case was not met by the concerned officer, she failed to furnish opinion in those cases. Further she had also commented upon the Superintendent of Police, Deputy Superintendent of Police and Inspector of Police, Thiruvarur District without any just cause. Hence the second count of charge.
3.	Highly condemnable, reprehensible and corrupt	8 CD files pertaining to Peralam PS were handed over to Tmt.G.Shaankari



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	act in demanding certain favours like directing the Peralam Police to take steps to enable Tr.R.Sivakumar to get the chit amount from Tr.S.Murugaiyan, for furnishing opinion in cases pertaining to Peralam PS.	for opinion on 21.01.2003. But after a prolonged delay and after getting some favours, opinion was given in two cases alone. Thereafter Tmt.G.Shaankari contacted the PS and asked them to help R.Sivakumar of Poonthattam to get his chit amount due to him from Tr.S.Murugaiyan. She also told them that opinion for the remaining cases would be furnished only after completing the afore said work. Finally she furnished opinion only in one case and returned the other CD files. Hence the third count of charge. 3
4.	Highly condemnable, reprehensible and corrupt act in demanding Rs.200/- for furnishing opinion in Mannargudi PS Cr.No.491/03 and 174/03.	When CD files in Mannargudi PS Cr.Nos. 491/03 and 174/03 were handed over to Tmt.G.Shaankari for opinion and draft final report, she demanded Rs 200/- for furnishing opinion and when the police refused to give the money, she stopped receiving the CD files. Hence the fourth count of charge.
5.	Highly condemnable, reprehensible and corrupt act in demanding and accepting a pre paid card from Tr.N.Balraj, SI of Police Tiruvarur Taluk PS for preparing the draft counter affidavit on behalf of District Collector, Tiruvarur.	Tr.N.Balraj, Sub-Inspector of Police, Tiruvarur Taluk P.S met Tmt.G.Shaankari during October 2003 to get a draft counter affidavit in a HCP filed by one Tmt.Ammakannan on behalf of her daughter Amaravathy against the District Collector, Tiruvarur. But Tmt.G.Shaankari furnished the counter only after Tr.N.Balraj gave her a prepaid sim



		card, that too after a delay of more than a month. Hence the fifth count of charge.
6.	Highly condemnable, reprehensible and corrupt act in making the police to spend Rs.800/- for furnishing draft final report in the cases in Vadapathimangalam PS Cr.No.162/01, 164/01 and 165/01.	Three CD files in Vadapathimangalam P.S Cr.Nos. 162/01, 164/01 and 165/01 were handed over to Tmt.G.Shaankari for furnishing draft final opinion. But after making the police to spend Rs.800/- draft final reports were furnished by her. Hence the sixth count of charge.
7.	Highly condemnable and reprehensible conduct in abusing the Superintendent of Police, Nagapattinam in a demeaning manner.	When Tr.P.Prabhu, Sub-Inspector of Police, Koothanallur PS met Tmt.G.Shaankari for getting draft final report in Koothanallur PS Cr.No.406/02, she without any just cause had criticized the Superintendents of Police, Nagapattinam and Thiruvavur District in the presence of Training Women Deputy Superintendent of Police and Inspector of Police Tiruvavur Town in a demeaning manner. Hence the seventh count of charge.
8.	Highly condemnable and reprehensible conduct in abusing the Superintendent of Police, Thiruvavur in a demeaning manner.	Tr.S.Rajarathinam, Sub-Inspector of Police, Thiruthuraiipoondi when approached Tmt.G.Shaankari to get draft final report in Edapadur PS cases, she has criticized the Superintendent of Police, Tiruvavur. Hence the eighth count of charge.

3. After receipt of the above charge memo, the petitioner sought for furnishing of certain documents referred in Annexure-III of the charge memo



and thereafter, the petitioner while denying the charges, also sought for a copy of the preliminary enquiry report, which was referred to in the charge memo, by submitting a Letter dated 28.10.2005. The said request of the petitioner was turned down by the respondents through their Letter dated 17.11.2005 stating that the prosecution is relying upon ten documents mentioned in the charge memo, and no such preliminary enquiry report of the Joint Director of Prosecution is available for furnishing to the petitioner. The said Letter was received by the petitioner on 21.11.2015. Accordingly, the petitioner submitted her explanation, dated 05.12.2015 denying the charges and also contending that the charges are vague and lacks material particulars.

4. In the meanwhile, even before the submission of explanation by the petitioner, the 1st respondent through proceedings dated 01.12.2005 appointed the 2nd respondent herein, as an enquiry officer to conduct detailed enquiry into the charges levelled against the petitioner. It was thereafter, the petitioner approached this Court by filing the present writ petition contending that, the then Superintendent of Police of Tiruvarur by name Thiru.Ravikumar has developed prejudice against the petitioner, as she could not appear for monthly crime review meeting during the month of November



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and December 2003 and accordingly, obtained certain false reports from the Police officials and submitted a report to the 1st respondent resulting in issuance of the impugned charge memo.

5. It is also the case of the petitioner that, it is only because of her busy schedule in attending the trial work in the Court of Chief Judicial Magistrate, Nagapattinam during the month of November and December 2003, the petitioner could not attend the monthly crime review meetings, and that was taken as an issue resulting in issuance of the impugned charge memo.

6. Heard Mr.S.Sivakumar for Mr.P.P.Shanmuga Sundaram, learned counsel for the petitioner and Mr.Vadivelu Deenadayalan, learned Additional Government Pleader for the respondents.

7. In order to appreciate the contentions raised in the writ petition, this Court has carefully gone through the charges levelled against the petitioner along with the statement of allegation. The charges 1 to 4 are all of



identical in nature alleging that, the petitioner has exhibited condemnable, reprehensible and corrupt act in demanding and accepting articles, and money for furnishing legal opinion/draft reports in connection with the crimes relating to different Police Stations namely, Kudavasal Police Station, Nannilam Police Station, Peralam Police Station and Mannargudi Police Station. Neither the dates on which the said demand was made, what date the same was accepted, to whom the said demand was made, who paid such amounts or articles nor handed over the articles to the petitioner, etc are totally absent in the charge as well as in the statement of allegation.

8. The statement of allegation in respect of charge No.1 is nothing to do with the charge, except once again stating that the petitioner has furnished the draft final reports after collecting some articles worth Rs.300/- to 400/- for each case from the concerned Police. It is not stated as to what are the articles that are collected by the petitioner, and who are the Police who handed over such articles to the petitioner. The allegation that the petitioner failed to give acknowledgment for the receipt of CD files, and failed to furnish draft final reports within a reasonable time is not the charge that is levelled against the petitioner. But it is not known for what purpose the same was



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included in the statement of allegation.

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9. In order to conclude that the petitioner failed to furnish the draft final reports within a reasonable time, it is necessary to state the dates on which the relevant crime files were handed over to the petitioner and when exactly the petitioner furnished the draft final reports. None of the particulars are furnished either in the charge or in the statement of allegation.

10. The statement of allegation in respect of Charge No.2, only speaks of handing over CD files by Thiru.N.Rajendran, Inspector of Police, Nannilam Police Station, but it is not stated to whom the petitioner made such demand of Rs.250/- for furnishing opinion for each case. In the statement of allegation, it is further stated that the petitioner has commented upon the Superintendent of Police, Deputy Superintendent of Police and Inspector of Police, Thiruvarur District without any just cause. The Charge No.2 is nothing to do with making comments on the Superintendent of Police, etc, but the same was stated in the statement of allegation as against the Charge No.2. All the lacunas that are pointed in respect of Charge No.1 are also present in the Charge No.2 as well.

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11. Then, coming to Charge No.3, the charge is equally vague and the statement of allegation is also vague. The statement of allegation states that, after a pro-longed delay and after getting some favours, opinion was given in two cases and thereafter, the petitioner contacted the Police Station and asked to help one R.Sivakumar of Poonthattam to get his chit amount from S.Murgaiyan stating that, the opinion in the remaining cases will be furnished only after completing the said work and finally, she furnished opinion in only one case and returned the other CD files. The allegation itself is that the petitioner got some favours for giving opinion. What are the favours that are received by the petitioner is not stated, and on what dates such favours were received also not stated. Neither the said R.Sivakumar or S.Murugaiyan are shown as list of witnesses in the Annexure-II nor who is the person in Peralam Police Station with whom the petitioner contacted for alleged favours is also not stated. Thus, the Charge No.3, as well as the statement of allegation are totally vague.

12. The Charge No.4 is again demanding Rs.200/- for furnishing opinion in a crime of Mannargudi Police Station. In the statement of



allegation, it is once again stated that the petitioner demanded Rs.200/- for furnishing opinion upon being handed over CD files of two crimes of Mannargudi Police Station. Neither in the charge nor in the statement of allegation, it is not stated who handed over the CD files, on what date they were handed over, when the draft final reports were furnished by the petitioner or to whom such demand of Rs.200/- was made. Thus, this charge is also as vague as it can be.

13. The Charge No.5 is with regard to demanding and accepting a prepaid Sim card from one N.Balraj, Sub-Inspector of Police, Tiruvarur Taluk Police Station. In the statement of allegation, it is stated that the petitioner has demanded a prepaid Sim card to get a draft counter prepared in HCP filed before the High Court, and it is only after giving the prepaid Sim card and after delay of more than a month, she gave the draft counter. This charge is also vague for want of furnishing particulars such as, the date on which the Sub-Inspector of Police approached the petitioner for preparation of draft counter, and when exactly the same was furnished, and so called prepaid Sim card was obtained in whose name and what is the Mobile number of the said Sim card etc, are not furnished. Whether that prepaid Sim card has been used



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by the petitioner or not is also not stated.

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14. The Charge No.6 is again making the Police to spend Rs.800/- for furnishing draft final report in three crimes of Vadapathimangalam Police Station. Either in the charge or in the statement of allegation, it is not stated on which date the petitioner has committed such mis-conduct and for what purpose the Police spent Rs.800/-. In the absence of basic narration of fact as to for what purpose the concerned Police has spent Rs.800/-, it is not understood as to how the respondents intend to attribute the mis-conduct to the petitioner. It is also not stated who is the person/Police who spent such a amount, at whose instance such an amount was spent and for what purpose. Thus, this charge is also totally vague and incapable of answering the same.

15. Thus, the perusal of the Charges 1 to 6 and the corresponding statement of allegation would only suggest that a general and omnibus vague allegations are levelled against the petitioner without furnishing any basic particulars, and such allegations could be levelled against any person at any time.



16. Then, coming to the Charges 7 and 8, which are of similar in nature, alleging that the petitioner has abused the Superintendent of Police, Nagapattinam and Superintendent of Police, Thiruvarur in demeaning manner. Again the basic particulars, such as the date on which the alleged abuse taken place, the place where such abuse was taken place, and the context in which the petitioner abused the Superintendent of Police, etc are all absent. It is also not understood what is meant by 'demeaning manner', and what are the exact nature of abuse made by the petitioner is also absent.

17. In respect of Charge No.7 it is stated that when the Sub-Inspector of Police, Koothanallur Police Station met the petitioner in connection with Crime No.406 of 2002, the petitioner has abused the Superintendent of Police, Nagapattinam in a demeaning manner. The said crime is of the year 2002 and the charge that is levelled against the petitioner is in the year 2005. The respondents without furnishing the particulars such as date, time, place, etc, requiring the petitioner to explain the said charge of abusing the Superintendent of Police, is nothing but abuse of process and abuse of power conferred upon the disciplinary authority. It is not understood as to how the disciplinary authority expect the petitioner to explain the charge without



furnishing the basic particulars. The lacunas that are pointed out in respect of Charge No.7 are equally present in respect of Charge No.8 as well.

18. Thus, on thorough appreciation of the charges and the corresponding statement of allegation, this Court has no hesitation to come to conclusion that the issuance of the impugned charge memo against the petitioner is nothing but sheer abuse of process because of the ego issues and conflict between the Police officials and the legal professional. The legal professional, who is acting as a prosecutrix conducting the trial before the Court of law, is expected to maintain dignity and decorum of a professional. Merely because she/he happens to be a Government servant working in a Uniform Services, she cannot be treated as Subordinate to the police officials. Perhaps, it is only because of such ego issues, the then Superintendent of Police, Thiruvarur appears to have drawn a sketch to implicate the petitioner in disciplinary proceedings in order to satisfy the ego issues.

19. When the charge memo is challenged before this Court, this Court has rightly stayed all further proceedings, by an order, dated 20.03.2006, the said order was also made absolute subsequently and the

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same is still in operation. Thus, the disciplinary proceedings that were initiated by issuing the impugned charge memo remain staying for all these years. Further, the petitioner has also retired from service on attaining the age of superannuation as early as on 31.07.2009 and she was relieved from service, of course without prejudice to the disciplinary proceedings pending against her.

20. It is also settled law that the charges that are vague and incapable of submitting an explanation are liable to be quashed. It is also settled law that the charges should be specific, definite and furnish all the details of the incident which formed the basis of the charges and no enquiry can be sustained on vague charges as held by the Hon'ble Apex Court in the cases of *State of Andhra Pradesh Vs. P.Sree Rama Rao* reported in *AIR 1963 SC 1723*, *Sawai Singh Vs. State of Rajasthan* reported in *(1986) 3 SCC 454*, *U.P.SRTC Vs. Ram Chandra Yadav* reported in *(2009) 9 SCC 327*, *Union of India Vs. Gyan Chand Chattar* reported in *(2009) 12 SCC 78* and *Anil Gilurker Vs. Bilaspur Raipur Kshetriya Gramin Bank* reported in *(2011) 14 SCC 379*.



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21. In the light of the settled legal position together with the conclusions arrived at by this Court on each of the charges as narrated above, this Court is unhesitant to come to the conclusion that, the charges levelled against the petitioner are all as vague as they can be and incapable of submitting proper explanation and for the same reason, the impugned charge memo is liable to be quashed. Yet another ground is on which the impugned charge memo is liable to be quashed is that the petitioner has already retired from service on attaining the age of superannuation as early as on 31.07.2009 and by now, the petitioner is aged about 72 years and at this stage, it would be improper and unjust to subject the petitioner to the disciplinary proceedings. In the light of the above, the impugned charge memo is liable to be quashed and the same is accordingly quashed.

22. Accordingly, this writ petition is allowed. The connected miscellaneous petitions, if any, shall stand closed. No costs.

29.11.2024
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Index : Yes/No
Speaking Order : Yes/No
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To:

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- 1.The Director of Prosecution
22, Rajamuthiah Salai
Periamet, Chennai 3.
- 2.The Deputy Director of Prosecution
Trichy Region
21 Anaikatti Maidan
Bheemanagar, Trichy.

MUMMINENI SUDHEER KUMAR,J.
dpa

Pre-Delivery Order made in
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