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W.P.No.3566 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition No.3566 of 2024
and W.M.P.Nos.3828, 3830 & 3831 of 2024

R.Hema,
Inspector of Police,
(Under suspension)
Economic Offence Wing,
Erode.

... Petitioner

Vs.

1. Director General of Police,
Mylapore, Chennai – 600 004.

2. The Additional Director General of Police,
Economic Offence Wing,
Police Training College,
Ashok Nagar,
Chennai – 600 083.

3. R.Raghupathi,
Deputy Superintendent of Police,
Economic Offence Wing II, Erode.

... Respondents

[R3- impleaded as per order dated 29.04.2024 in W.M.P.No.11418 of 2024 in W.P.No.3566 of 2024 by DBCJ]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent vide charge memo No.PR/1/2023 U/r 3 (b)



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dated 20th July, 2023 and quash the same and the consequential order of the C.No.A2/EOW/7286/2022 D.No.171/2022 dated 22.07.2022 and quash the same and direct the respondents to regularize the period of absence during the suspension period as duty period with all service and monetary benefits.

For Petitioner : M/s.Dakshayani Reddy
Senior Counsel
for Ms.S.Suneetha

For Respondents : Mr.C.Jayaprakash
Government Advocate

ORDER

This writ petition is filed challenging the impugned order of suspension dated 22.07.2022 and the charge memorandum dated 20.07.2023.

2. It is the case of the petitioner that the third respondent had taken advantage of his position and demanded illegal favours, which the petitioner did not accede to. Therefore, on the instigation of the third respondent, the petitioner was suspended and the charge memorandum was also issued.

3. The writ petition is resisted by filing a counter affidavit.



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4. The case of the respondents is that pending contemplation of the enquiry into a serious charges, the petitioner is placed under suspension. Subsequently, the charge memorandum has been issued and the enquiry is now in progress. It is not issued on the instigation of the third respondent. Therefore, they prayed that this writ petition should be dismissed.

5. Ms.Dakshayani Reddy, learned Senior Counsel appearing on behalf of the petitioner would submit that firstly the suspension order has been passed in the year 2022, now almost 2 years are about to complete. When the disciplinary proceedings are not completed, the respondents cannot eternally keep the petitioner under prolonged suspension. The same is causing grave mental agony and stigma to the petitioner. As far as the charge memorandum is concerned, it is her case that the charge memorandum is issued only with the malafide intention. Since the petitioner did not co-operate with the third respondent in respect of his sexual demands and also stood as a witness in the connected matter relating to another female colleague, the petitioner is being victimized. As a matter of fact, the third respondent was initially suspended and there



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has also been a report of the internal complaints committee.

Subsequently, the third respondent is now reinstated into service, while the petitioner, who is a victim is still kept under suspension.

6. As far as the charge is concerned, she would submit that the petitioner has correctly laid the charge sheet. As a matter of fact, even if the respondent feels that two other accused should have been added, subsequently an application was filed before the trial court in CrI.M.P.No.990 of 2022 for further investigation and even after further investigation by a different officer, till date, the said Prathap and Vinoth are not added as an accused and the trial is proceeding on the basis of the original charge sheet filed by the petitioner, that would itself show that the petitioner has not committed any irregularity in not adding the said two accused. Secondly, it cannot be termed as a dereliction of the duty, but by an error of the judgment. When the Investigation Officer proceeds with her statutory duties under the Code of Criminal Procedure and applies her mind and files charge sheet to the best of her ability, merely because it is specifically felt that some other persons should have been added as an accused, the same would not *ipso facto* amount to misconduct. In any event, the learned Senior Counsel would submit that



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even if the respondents proceed with the enquiry, the petitioner also ready to face the enquiry, if this Court fixes any time frame for completion of the enquiry.

7. *Per contra*, Mr.C.Jayaprakash, learned Government Advocate would submit that entire averments relating to the sexual harassments by the third respondent has got no connection to the present case. As far as the present case is concerned, she was suspended pending enquiry into the grave charges. Charge under Rule3(b) of the Tamil Nadu Police Officers Subordinate Services (Discipline and Appeal) Rules, 1955 has subsequently been framed on 20.07.2023 and the petitioner has submitted her explanation. As a matter of fact, the charges are serious in nature. The petitioner has not only left one Prathap and Vinoth from the array of the accused, the same also resulted in defreezing their properties and the victims could not realize the entire dues on account of the same. The Enquiry Officer was also appointed on 02.08.2023 and the enquiry will be completed within a short time as may be directed by this Court.



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8. I have considered the rival submissions made on either side and perused the records of the case.

9. As far as the suspension of the petitioner is concerned. The question to be determined is that whether this would be a fit case to continue the suspension of the petitioner in the public interest or whether the same should be interfered with by this Court in view of the efflux of time. As far as the charge memorandum is concerned, whether the same is vitiated by malafide or not is the question to be decided.

10. It can be seen that the order of suspension was passed on 22.07.2022 now atleast two years have gone and the charge memorandum was issued on 20.07.2023 and the enquiry officer was appointed on 02.08.2023. Therefore, upon considering the nature of charges, it can be seen that allegation against the petitioner is dereliction of duty in one particular case viz., Crime No. 1 of 2019. The said case is under the Tamil Nadu Protection of Interest of Depositors (in Financial Establishment) Act, 1997. The allegation against the petitioner is that two other persons, who were likely to be added as an accused, viz., Prathap and Vinoth, while filing the charge sheet were left out. This



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court also takes note of the fact that subsequently an application has been filed for further investigation in CrI.M.P.No.990 of 2022. Even in the said application, the reason which is stated for further investigation is that further complaints are also received subsequent to the filing of the charge sheet from several other victims.

11. The learned Senior Counsel appearing on behalf of the petitioner makes a positive statement that the trial is proceeding in the matter without adding the said two other person as an accused.

12. Learned Government Advocate is not a position to refute the same.

13. Therefore, in view of the lapse of almost two years and considering the nature of charges, which are levelled against the petitioner, this Court is of the view that it cannot be in public interest to keep the petitioner in prolonged suspension. Therefore, the respondents are liable to review and revoke the suspension. As far as the charge memorandum is concerned, even though the petitioner has alleged malafide, it can be seen that the charge memorandum is not issued by the



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third respondent, but by the Additional Director General of Police. In that view of the matter, at this stage, this Court cannot interfere with the charge memorandum. Learned Senior Counsel appearing on behalf of the petitioner would also concede that the petitioner will face the enquiry and raise all her defenses in the course of the enquiry.

14. In that view of the matter, challenge to the charge memorandum shall stand rejected and it would suffice that the respondents are directed to conclude the enquiry within a period of three (3) months from the date of receipt of a copy of this order.

15. In view thereof, this Writ Petition is disposed of on the following terms:

(i) The respondents are directed to pass orders revoking the order of suspension dated 22.07.2022 within a period of two(2) weeks from the date of receipt of a copy of this order.

(ii) The respondents shall also proceed with the disciplinary enquiry in respect of the charge memorandum bearing reference PR.No.01/2023, dated 20.07.2023 and pass final orders in respect of the



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same within a period of three(3) months from the date of receipt of a copy of this order.

(iii) No costs. Connected miscellaneous petitions are closed.

04.06.2024

Neutral Citation: No

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To

1. Director General of Police,
Mylapore, Chennai – 600 004.
2. The Additional Director General of Police,
Economic Offence Wing,
Police Training College,
Ashok Nagar,
Chennai – 600 083.



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D.BHARATHA CHAKRAVARTHY, J.

mp

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