



WEB COPY



W.P.No.25876 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.25876 of 2012

A.Arokiaraj

... Petitioner

Vs.

1.The Director,
Sugar Research Institute,
Ammundi,Vellore District 632 519.

2.The Director / Commissioner of Sugar,
690, Anna Salai,
Nandanam, Chennai 600 035.

3.The Special Officer,
Tirupattur Co-operative Sugar Mills,
Kethandapatti,
Vellore District 635 815.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in Na.Ka.No.SRI/E/1260/2009 dated 02.07.2012 of the first respondent and quash the same.

For Petitioner : Mr.S.V.Ramamurthy

For Respondents : Mr.A.M.Ayyadurai, GA for R1 & R2
Mr.R.Gopinath for R3

ORDER



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This Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records in Na.Ka.No.SRI/E/1260/2009 dated 02.07.2012 of the first respondent and quash the same.

2. The petitioner has challenged the charge memo dated 02.07.2012, by and in which, the petitioner was charged under three grounds including misappropriation of Rs.15,00,000/-.

3. It is the submission of the learned counsel for the petitioner that the petitioner was appointed as Manufacturing Chemist in the respondent Institute, and has been doing his duty without any demur. According to the petitioner, the alleged misappropriation was not at all committed by him and it was only his salary component and there was no scope for any misappropriation. The further contention of the learned counsel for the petitioner is that in view of the good conduct of the petitioner, he was promoted and has been retained in the promotional post for 2 1/2 years. Therefore, the very charge memo has been issued with a tainted motive. Hence, he prayed to quash the charge memo issued against the petitioner.

4. The learned Government Advocate appearing for the respondents 1 and 2 submitted that the petitioner cannot challenge the



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charge memo. Therefore, the instant Writ Petition is liable to be dismissed with a direction to the petitioner to approach the Enquiring Authority and explain the grounds which have been urged before this Court. Hence, he prayed for dismissal of this Writ Petition.

5. Heard both sides. This Court has given its anxious consideration on the submissions made by either side.

6. The sum and substance of this Writ Petition is a challenge against the charge memo dated 02.07.2012. Such a challenge is nothing but a challenge against the show cause notice. It is a well settled principle of law that no infringement of right would occur while issuing the show cause notice. If at all the petitioner's right could be infringed, it may be only through the final order. Therefore, the petitioner cannot invoke the jurisdiction of the Court under Article 226 of the Constitution of India, at the stage of issuance of the charge memo itself. It is useful to refer *(2012) 11 SCC 565 (Secretary, Ministry of Defence and Others Vs. Prabhash Chandra Mirdha)*. It is also pertinent to mention that it is not the case of the petitioner that the charge memo was issued by the



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incompetent person with a *malafide* motive. Therefore, this Court does not find any merit in the Writ Petition and it is liable to be dismissed.

7. In the result, this Writ Petition is dismissed. However, a liberty is given to the petitioner to give his explanation to the Enquiring Authority and participate in the domestic enquiry proceedings. Having considered the long pendency of the matter, the respondents are directed to dispose of the domestic enquiry as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order, if not concluded already. No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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C.KUMARAPPAN, J.

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