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W.P.No.9893 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

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THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.9893 of 2024  
and  
WMP.No.10898 of 2024

R.Balamurugan

... Petitioner

Vs.

1. The Additional Chief Secretary to  
Government Water Resources Department,  
Secretariat, Chennai-09.

2. The Engineer in Chief & Chief  
Engineer (General),  
Water Resources Department,  
Chepauk, Chennai-600 005.

3. The Chief Engineer, W.R.D,  
Design Research & Construction Support,  
Chepauk, Chennai-600 005.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari to call for the records in impugned Charge memo passed by the 1<sup>st</sup> respondent in his and proceeding in G.O.(D).No. 109, Water Resources (D1) Department, Letter No. 1369/D1/2023-15, dated 24.05.2023 and quash the same



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For Petitioner : Mr.L.Chandrakumar for  
Mr.S.Satheeshkumar

For Respondent : Mr.Stalin Abimanu,  
Additional Government Pleader.

### **ORDER**

The Writ Petition is filed challenging the impugned charge memorandum dated 24.05.2023 whereby two charges were levelled against him.

2. Mr. L. Chandrakumar, the learned counsel for the petitioner, would submit the charges as such, can never amount to misconduct. According to him, when the petitioner is working only as a superintendent, it is his duty to implement the government order. It is the government or higher authorities who decided to impose the punishment of compulsory retirement, and they also authorized the payment of death cum retirement gratuity to the said person. It is only as per the rules as allowed by the G.O. of the government that the petitioner simply forwarded the proposal to the next higher authority. As a person working in the seat, except to do his duty, he has no nexus with T.Prakasam, nor has he committed any misconduct, and therefore this is a case where this Court should interfere with the charge memorandum.



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WEB COPY 3. Per contra, the learned Additional Government Pleader would submit that in this case, the government, upon considering the fact that the death cum retirement benefits, and other benefits were released to the compulsory retired employee without even obtaining the sanction of the government and without considering the other factors in a hurried manner and the same having caused loss to the government, has taken action against all the officers from top to bottom involved in the entire exercise. The role of the petitioner is clearly enunciated in the charge itself and also delineated in the statement of imputation of allegations. Therefore, when the petitioner has played a role, if at all he has got any defense or mitigating circumstances, the same has to be brought only before the disciplinary authority, and on the basis of the defense of the petitioner, the charge memorandum cannot be interfered with.

4. I have considered the rival submissions on either side and perused the material record of this case.

5. In this case, a definite charge has been levelled against the petitioner,



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i.e., without getting the government order fixing the payment of pension and death cum retirement gratuity, was made to the T.Prakasam in violation of Rule 60(1)(c) of the Tamil Nadu Pension Rules, 1978. Further details are given in the statement of imputation of misconduct. Paragraph 3 of the statement of imputation also reads as follows:

" Thiru. R. Balamurugan, Superintendent, Public Works Department during his tenure in the Office of the Superintending Engineer/Director, Water Resources Department, Institute of Hydraulics and Hydrology, Poondi had forwarded the pension and Death-cum-Retirement Gratuity proposal in respect of Thiru. T.Prakasam, Superintending Engineer (Compulsorily Retired), Water Resources Department, to the Chief Engineer, Water Resources Department, Design Research and Construction Support, Chennai, vide letter No. E1/2000/2021, dated 22.12.2021, without considering the pendency of departmental disciplinary proceedings involving monetary loss to the Government against the said officer and without getting Government orders fixing pension and Death-cum-Retirement Gratuity of Thiru. T. Prakasam, Superintending Engineer (Compulsorily Retired) Water Resources Department under Rule 39 of the Tamil Nadu Pension Rules, 1978."

6. Therefore, when a specific role has been alleged to the petitioner in the entire episode and when a common enquiry is being conducted, the arguments made by the learned counsel for the petitioner are in the nature of the defense to the charge.



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7. With respect thereof, this court cannot entertain the writ petition to interfere with the charge memorandum. The petitioner can very well raise all his defenses before the disciplinary authority.

8. In this case, the grievance of the government seems to be that one T. Prakasam, who was found guilty on a charge of misappropriation of government funds and several other charges, in the name of punishment, was sent home royally with more money in his hands. Therefore, they have initiated joint enquiry action against all involved. Therefore, it is not a fit case for the Court to interfere. However, considering the prayer made by the petitioner, a direction can be given for the expeditious conclusion of the enquiry.

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

- (i) The prayer of the petitioner to quash the charge memorandum dated 24.05.2023 in G.O.(D).No. 109, Water Resources (D1) Department, bearing Letter No. 1369/D1/2023-15, shall stand negatived. However, the petitioner will be entitled to raise all his defenses, which are



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raised in the Writ Petition before the disciplinary authority,  
and the same shall be considered on its own merits in  
accordance with the law.

(ii) The respondent authority shall complete the disciplinary  
enquiry as expeditiously as possible, in any event not later  
than six months from the date of receipt of a copy of this  
order.

(iii) No costs. Consequently, the connected miscellaneous  
petition is closed.

**21.06.2024**

Neutral Citation :No  
jrs



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Government Water Resources Department,  
Secretariat, Chennai-09.
2. The Engineer in Chief & Chief  
Engineer (General),  
Water Resources Department,  
Chepauk, Chennai-600 005.
3. The Chief Engineer, W.R.D,  
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**D.BHARATHA CHAKRAVARTHY, J.**



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