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W.P.No.10176 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.10176 of 2020

and

W.M.P.Nos.12372& 12373 of 2020

M.Durai Raj

....Petitioner

Vs

1. The District Collector,
Dharmapuri District,
Dharmapuri – 636 705
2. The District Revenue Officer,
District Revenue Office,
Dharmapuri District.
3. The Tahsildar,
Palacode Taluk,
Dharmapuri District.
4. The Revenue Inspector,
Palacode,
Dharmapuri District.
5. The Village Administrative Officer,
Thirumalvadi Village,
Palacode Taluk,
Dharmapuri District.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent herein, Na.Ka.No.859/2020/A3 dated 29.05.2020 and quash the same.



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For Petitioner : Mr.A.Ilayaperumal
For Respondents : Mr.P. Ananda Kumar
Government Advocate

ORDER

The instant Writ Petition has been filed challenging the issuance of charge memorandum.

2. The learned counsel for the petitioner would submit that, when the petitioner applied for the post of Village Assistant, the respondents had deliberately not selected the petitioner, inspite of his overwhelming merit, for the said post. Which necessitated him to prefer a Writ Petition in W.P.No.34887 of 2018, wherein this Court directed the respondents to appoint the petitioner in the said post. Inspite of the specific direction, the respondents delayed the issuance of appointment order, hence, he preferred contempt petition in Cont.P.No.2165 of 2019 and only thereafter, petitioner was appointed in the 5th respondent Office.

3. It is the specific contention of the learned counsel for the petitioner that, only because of the filing of Writ Petition, and Contempt Petition, to wreck vengeance against the petitioner, the impugned charge memorandum has been issued to the petitioner on a trivial incident and the



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the charge memorandum contains false accusation and was issued with malafide intention. Hence, he prayed to interfere with the charge memorandum.

4. Per contra, the learned Government Advocate submitted that, during Covid period, the petitioner did not follow the instructions given by the higher officials, which is serious in nature, accordingly, there is no malafide in issuing the charge memorandum, and the petitioner has no fundamental right to challenge the issuance of charge memorandum. Hence, he prayed to dismiss the present Writ Petition.

5. I have given my anxious consideration to the either side submissions.

6. The main contention put forth by the learned counsel for the petitioner is that the present charge memorandum has been issued with the malafide intention and to wreck vengeance on account of the petitioners filing of Writ Petition and Contempt Petition against the Authorities concerned. However, it is settled principles of law, the mere issuance of the show cause notice or charge memorandum will in no way give any



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cause of action to challenge the same, as the mere issuance of charge memorandum will in no way infringe the fundamental right of the petitioner. Accordingly, the Court must be slow in interfering with the charge memorandum unless if the same issued by the incompetent authority. Accordingly, this Court could not find any merit in this Writ Petition. However this Court would like to modify the charge memorandum from 17(b) of Discipline and Appeal rules to 17(a) of Discipline and Appeal Rules, as the charge involved is trivial in nature.

7. Further, considering the peculiar circumstances of the case, and also considering the age of the petitioner and his sincere effort to join in the present post, and by considering period of the incident qua during the covid period in 2020, this Court directs the 3rd respondent to furnish the documents relied by them, to the petitioner within a period of two weeks from the date of receipt of copy of the order, and on receipt of the same, the petitioner is directed to submit his explanation. On receipt of petitioner's explanation, the 3rd respondents is directed to proceed with the disciplinary proceedings in accordance with law, and by following all the due procedures. It is made clear that the charge memorandum issued against the petitioner is directed to be dealt under Section 17(a) of



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Discipline and Appeal Rules.

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8. With the above observations and directions, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

No costs.

22.10.2024

Index : Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma

To

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C.KUMARAPPAN, J

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