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Writ Petition No.24282 of 2023`

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.24282 of 2023

WMP No.23742 of 2023

J.Ashok Kumar

.. Petitioner

Vs.

1. The Additional Chief Secretary to Government
Labour Welfare and Skill Development Department,
Secretariat, Fort St. George,
Chennai - 9

2. The Principal Secretary/Commissioner of Labour,
D.M.S.Compound, Chennai - 6

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in connection with the impugned charge Memo passed by the 2nd respondent in No.F1/308232022 dated 24.07.2023 (Served on 03.08.2023) quash the same and direct the respondents to consider the claim of the petitioner for promotion as Deputy Inspector of Labour for the panel year 2022-2023 and promote him as such and grant him all consequential service and monetary



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benefits and grant such further relief.

For Petitioner : Mr.K.Venkatraman
Senior Counsel for
Mr.M.Muthuppan
For Respondents : Mr.S.Prabhakaran
Government Advocate
for R1 and R2

ORDER

This writ petition has been filed challenging the impugned charge memo issued by the 2nd respondent dated 24.07.2023 and for a direction to the respondents to consider the claim made by the petitioner for promotion as Deputy Inspector of Labour for the panel year 2022 - 2023 and to grant all consequential service and monetary benefits.

2. The case of the petitioner is that he was working in the post of Superintendent / Stamping Inspector in the year 2013. The petitioner was suspended from service on 13.04.2020, based on departmental proceedings contemplated against the petitioner. A charge memo came to be issued by the Joint Commissioner of Labour, Chennai on 29.04.2020 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Nearly 11 charges were framed against the petitioner. The



petitioner on receiving the charge memo gave his explanation. Not being satisfied with the explanation, an enquiry officer was appointed to conduct the enquiry. The Enquiry officer after conducting the enquiry submitted a report on 20.05.2021 holding that none of the charges were proved. The 2nd respondent through proceedings dated 27.10.2021 agreed with the findings of the enquiry officer and dropped further action against the petitioner. The petitioner was reinstated into service in the meantime.

3. In the light of the departmental proceedings being dropped against the petitioner, the 2nd respondent issued the consequential order dated 07.12.2021 treating the period of suspension from 13.04.2020 to 06.05.2021 as duty for all purposes. In view of the same, the petitioner was also entitled for all the attendant benefits.

4. The petitioner was due for promotion as Deputy Inspector of Labour for the panel year 2022 to 2023 for which the crucial date was 15.03.2022. According to the petitioner, he became fully qualified for promotion and the petitioner also submitted his particulars after it was



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called for by the 2nd respondent. The name of the petitioner was also added in the panel in Sl.No.20.

5. The grievance of the petitioner is that he once again received the impugned charge memo dated 24.07.2023 from the 2nd respondent containing four charges. According to the petitioner, the charges that were framed in the 2nd charge memo is nothing but a repetition of the charges framed in the earlier charge memo for which an enquiry was conducted and the petitioner was given a clean chit. Aggrieved by the same, the present writ petition has been filed before this Court challenging the 2nd charge memo issued by the 2nd respondent dated 24.07.2023.

6. The 2nd respondent has filed a counter affidavit. The 2nd respondent has taken a stand that the earlier charge memo is not identical with the present charge memo. That apart, the 2nd respondent has also taken a stand that during the previous proceedings, adequate documents and witnesses were not available and therefore, the same impelled the issuance of the present charge memo against the petitioner.



The 2nd respondent has thereby justified the issuance of the 2nd impugned charge memo against the petitioner and has sought for the dismissal of this writ petition.

7. Heard Mr.K.Venkatramani, learned Senior Counsel for Mr.M.Muthuppan, learned counsel for the petitioner and Mr.S.Prabhakaran, learned Government Advocate for respondents 1 and 2.

8. The main ground that was urged by the learned Senior counsel appearing on behalf of the petitioner is that the 2nd respondent, who was the same officer, who had issued the earlier charge memo for which the enquiry was conducted and the petitioner was not found guilty for any of the charges, has once again issued a fresh charge memo containing the very same set of allegations against the petitioner. Therefore, it was contended that the petitioner is attempted to be punished twice for the same set of charges. This is the ground raised by the learned Senior Counsel, who is seeking for quashing of the impugned charge memo issued against the petitioner.



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9. Per contra, the learned Special Government Pleader appearing on behalf of respondents apart from reiterating the stand taken by the 2nd respondent in the counter affidavit submitted that the earlier charge memo is not identical with the present charge memo and that there are serious charges against the petitioner for which the petitioner has to undergo the departmental proceedings and before the 2nd charge memo was issued, the 2nd respondent caught hold of additional documents and additional witnesses in order to sustain the charges that have been framed in the 2nd charge memo. The learned counsel therefore submitted that there is absolutely no ground to interfere with the impugned 2nd charge memo issued by the 2nd respondent.

10. This Court has carefully considered the submissions made on either side and the materials available on record.

11. This Court reminds itself the settled position of law that there are very limited grounds to interfere with the charge memo. Normally, the charge memo can be interfered where it has been issued



after a long period of time after the alleged incident had taken place and such delay remains unexplained. It can be interfered where an authority who is issuing the charge memo does not have the power or jurisdiction. It can also be interfered in a case where it is attended with malafides. The Court generally does not go deep into the merits of the charges framed against a delinquent employee and it is always left to be decided by conducting an enquiry.

12. In the case in hand, this Court finds that the 2nd impugned charge memo that has been issued to the petitioner is nothing but a old wine in the new bottle. On carefully comparing the earlier charge memo that was issued on 29.04.2020 and the present impugned charge memo dated 24.07.2023, it is seen that charge No.1 relating to the previous charge memo is Charge No.2 in the present charge memo. Likewise, the charge No.3 in the impugned charge memo is a repetition of Charge No.5 in the previous charge memo. Similarly, 4th charge in the impugned charge memo is a reiteration of the 7th charge in the earlier charge memo. It is also quite surprising that in the earlier charge memo, specific details were assigned in order to justify the charge. However, in the



present charge memo, it is completely bereft of details and that apart, the imputation of misconduct in support of the charges framed is nothing but a cut, copy and paste of the statement of charges framed against the petitioner.

13. The petitioner has already undergone a detailed enquiry after the previous charge memo was issued against the petitioner. Totally 11 charges were framed against the petitioner and the enquiry officer after conducting the enquiry came to a conclusion that none of the charges have been proved. When such a report was submitted by the enquiry officer and the 2nd respondent, incidentally who is the same officer who issued the present charge memo, was not satisfied with the same, he need not have accepted that enquiry report and the 2nd respondent always had the right to disagree with the enquiry report by assigning reasons and could have sought for an explanation from the petitioner to proceed further. However, the 2nd respondent has chosen to accept the earlier report submitted by the enquiry officer and the departmental proceedings itself was dropped. Not stopping with that, the 2nd respondent also issued



consequential order dated 07.12.2021 treating the suspension period as duty for all purposes and also held that the petitioner is entitled for all attendant benefits. Thus, a full fledged enquiry came to its logical end. Thereafter, the very same officer attempts to reopen the same issue by issuing a fresh charge memo which is nothing but a miniature of the earlier charge memo issued against the petitioner. This virtually amounts to double jeopardy. The only justification that has been given by the 2nd respondent is that there are now some additional documents and additional witnesses available. That can never be a ground to once again resurrect the charges against the petitioner which has already been held to be not proved. The same set of charges cannot be hanging like a damocles sword over the head of the petitioner forever on the ground that some additional materials have been collected at a future point of time.

14. It is not as if there was a change of officer and a new officer had unearthed some new materials and found that the earlier exoneration of the petitioner is unjustified. It is the same officer, who had issued the earlier charge memo and had accepted the negative



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report of the enquiry officer. For this officer to once again revive the same set of charges against the petitioner, gives an impression that the entire proceedings is attended with malafides. This is a justifiable ground to interfere with the charge memo.

15. In the light of the above discussion, the impugned charge memo issued by the 2nd respondent in No.F1/30823/2022 dated 24.07.2023, is hereby quashed. There shall be a direction to the respondents to grant the petitioner with all consequential service and monetary benefits.

16. In the result, this writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

30.08.2024

Index : Yes/No
Speaking order:Yes/No
Neutral citation:Yes/No
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