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W.A.Nos.2858 and 2524 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.10.2024

Delivered on : 20.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR. JUSTICE P.B. BALAJI

W.A.Nos.2858 and 2524 of 2024

and CMP.Nos. 18048, 19233 and 21060 of 2024

1. The Secretary to Government

Commercial Taxes and Registration Department,
Secretariat, Chennai-9.

2. The Inspector General of Registration,

Santhome High Road,
Santhome, Chennai-28.

..Appellants in both WAs

Vs

K. Natarajan

S/o. Krishnasamy

..Respondents in both WAs

Common Prayer: Writ Appeals have been filed under Clause 15 of Letters Patent to set aside the common order passed by the writ court in W.P.Nos. 18454 and 18456 of 023, dated 09.02.2024

For Appellants - Mr.B.Vijay,AGP

For Respondent - Mr.S.Vijayakumar, Senior Counsel

For Mr.K.N.Pandian



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COMMON JUDGMENT

Challenging the common order passed by the writ court in W.P.Nos. 18454 and 18456 of 023, dated 09.02.2024, these writ appeals are filed by the department.

2. Brief facts:

The writ petitioner/respondent herein in both the appeals while working as Sub Registrar, Vikkiravandi in Villupuram District was trapped and arrested on 02.07.2008 by the Vigilance and Anti-Corruption officials for demand and acceptance of bribe amount of Rs.1000/- from one B.H.Sahabhudeen for registration of document. The appellant had framed charges under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and issued a charge memo, dated 18.05.2009. Subsequently, the appellant had issued a second charge memo, dated 09.11.2009 for possession of unaccounted cash of Rs.3,095 at the time of his arrest on 02.07.2008. For the same set of facts, a criminal case was also registered before the Special Court for Prevention of Corruption Act Cases, Villupuram in SC.No. 24/2014. The said criminal case ended in acquittal by judgment dated 10.03.2020. Pending disciplinary proceedings, the respondent herein had filed two writ petitions for quashing the



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aforesaid two charge memos issued by the appellant herein. Pending writ petitions, the inquiry officer has submitted his final report on 26.09.2023, holding the charges as 'not proved'. Though the Inspector General issued charge memo dated 13.10.2023 disagreeing with the report of the inquiry officer, the writ court by considering the delay of 14 years in concluding disciplinary proceedings and the acquittal by the criminal court, had set aside all the three charge memos issued by the appellant and directed the appellant herein to grant service and monetary benefits to the writ petitioner/respondent herein. Challenging the same, these writ appeals are filed by the appellant-Department.

3. Learned Additional Government Pleader appearing for the appellant has submitted that the first charge memo was issued on 18.05.2009 for bribe and the second charge memo was issued on 09.11.2009 alleging possession of unaccounted cash of Rs. 3,095/- during the same incident, and for the same set of facts, a criminal case was also registered in S.C.No. 2 of 2009 on file of Chief Judicial Magistrate, Villupuram and same was concluded, acquitting the respondent by judgment dated 10.03.2020. Learned Additional Government Pleader appearing for the appellant has further submitted that though the criminal court acquitted the respondent from the charges, the same does not preclude the continuation of disciplinary proceedings, as the purpose of criminal and departmental inquiries differs.



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4. Learned Additional Government Pleader appearing for the appellant has submitted that due to non cooperation and repeated request for change of inquiry officer by the respondent/writ petitioner, the delay has caused in concluding the proceedings. Learned Additional Government Pleader appearing for the appellant has further submitted that the enquiry in disciplinary proceedings cannot be deemed to have been completed just on the receipt of the report of the inquiry officer. On receipt of the inquiry report, the same will be sent to the delinquent officer for his further explanation and based on the explanation and personal hearing, the disciplinary authority have to pass final orders. Hence, the Inspector General sought for 8 weeks time before the writ court, but the writ court without considering the above aspects, had quashed all three charge memos issued against the respondent/writ petitioner, merely citing the delay in concluding the disciplinary proceedings. Therefore, the order of the writ court is liable to be set aside.

5. Per contra, learned Senior counsel appearing for the respondent has submitted that the the appellant has issued two Charge memo dated 18.05.2009 and 09.11.2009 to the respondent for the same incident. The first inquiry officer was appointed on 30.07.2009, but not proceeded further as he was promoted as Deputy Inspector General of Registration. Subsequently, a criminal criminal case was also registered against the respondent on the file of Special Judge,



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Special Court for Prevention of Corruption Act Cases, Villupuram in S.C.No.24

of 2014 (originally taken on file by the Chief Judicial Magistrate at Villupuram in Spl.C.No. 2 of 009 and transferred to Special Court at Villupuram) and the criminal court acquitted the respondent from the charges.

6. Learned senior counsel has further submitted that since the disciplinary proceedings are delayed by the appellant department, the respondent had earlier filed a writ petition in W.P.No. 26656 of 2011, dated 28.11.2011 and the writ court issued directions court to proceed with the disciplinary proceedings, but no final orders shall be passed, till final orders passed in the criminal proceedings. Even after the aforesaid directions issued by the writ court, and initiated the enquiry, the respondent had again approached this Court in W.P.No. 18456 of 2023, and pending the above writ petition, the inquiry officer concluded enquiry as not proved in respect of charge memo dated 18.05.2009 after a period of 14 years. The 2nd appellant issued another charge memo dated 13.10.2023, disagreeing with the said inquiry officer's report. Therefore, after elaborately considering the facts and circumstances of the case, the writ court had quashed all three charge memos issued by the appellant -department and directed to reinstate the respondent into service. Therefore, the impugned order of the writ court does not warrant any interference and the present writ appeal is liable to be dismissed.



7. Heard Mr.B.Vijay, learned Additional Government Pleader appearing for the appellant-Department and Mrs.S.Vijayakumar, learned Senior Counsel assisted by Mr.K.N.Pandian, appearing for the respondent and perused the materials available on record.

8. The only point needs to be answered by this Court is whether the order of the writ court in quashing all the three charge memos issued against the respondent is valid in law or not?

9. The fact remains that the two charge memos viz., 18.05.2009 and 09.11.2009 were issued to the respondent/writ petitioner which were challenged in the writ petitions. With regard to the aforesaid charge memos, the enquiry officer was appointed after a lapse of more than 7 years and the enquiry officer held that the charges were not proved against the respondent vide order dated 26.09.2023. Pending the writ petitions, the 2nd respondent/Inspector General of Registration has issued disagreeing notice dated 13.10.2023 in the form of a third charge memo in respect of similar charges. However, the aforesaid disagreeing notice has not been challenged by the respondent/writ petitioner. Learned Additional Government Pleader for the appellant has also admitted that the latest disagreeing notice/ charge memo dated 13.10.2023 issued pending writ petition was not challenged by the writ petitioner. In such being the position, without amending the prayer, the writ court ought not to have set aside



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the latest disagreeing notice dated 13.10.2023 also while setting

aside the earlier charge memo dated 18.05.2009 and 09.11.2009.

10. The learned Single Judge without appreciating the facts in proper perspective by taking into consideration the averments made in the counter affidavit dated 20.10.2023, has recorded that since the enquiry in the final stage and will be completed within a period of eight weeks, when the enquiry itself was already concluded by the enquiry officer on 26.09.2023.

11. Therefore, this Court has no hesitation to hold that the enquiry report is predated or the 2nd appellant/Inspector General of Registration has filed incorrect affidavit before the writ court. Though the submissions made by the respondent/writ petitioner are acceptable, in the absence of amending the prayer in the writ petitioner or challenging the disagreeing notice dated 13.10.2023, the writ court ought not to have dealt with the disagreeing notice, which was issued pending the aforesaid writ petitions.

12. Though, the learned counsel for the respondent submitted that the respondent/writ petitioner has not satisfied with the reasons for disagreeing enquiry officer's report, and in the absence of such reasons, the said disagreeing notice is unsustainable. However this Court need not go into the said disagreeing notice since it is not the subject matter of the writ petition. Therefore, it has to be challenged before the appropriate forum.



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13. In the light of the aforesaid reasons the writ appeals stand allowed setting aside the impugned common order of the writ court dated 09.02.2024.

The respondent/writ petitioner is at liberty to challenge the aforesaid disagreeing notice dated 13.10.2023 in the manner known to law.

(D.K.K., J.) (P.B.B., J.)
20 .11.2024

Index : Yes

Internet : Yes

Speaking order/Non speaking order

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