



W.P.No.31814 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.31814 of 2022
and W.M.P.Nos.31273 & 31274 of 2022

M.Karthikeyan

.. **Petitioner**

Vs.

1.The State of Tamil Nadu
rep.by its Secretary
Labour & Employment Department
Fort St.George, Chennai – 600 009.

2.The Commissioner of Labour
Chennai – 600 006.

3.The Tribunal for Disciplinary Proceedings
Office of the Commissioner for
Disciplinary Proceedings
3rd Floor, Kuralagam, Chennai – 108.

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the records relating to the order of the 3rd respondent made in TDP case No.4 of 2021 (A1/87/2021) dated



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03.05.2022 and TDP Case No.5 of 2021 (A1/88/2021) dated 28.09.2022 and quash the same.

For the Petitioner : Mr.R.Sethu Pandiyan

For the Respondents : Mr.Stalin Abimanyu
AGP

ORDER

The petitioner challenges the charge memos dated 03.05.2022 and 28.09.2022 in and by which various charges were leveled against the petitioner.

2. The primary contention of the learned counsel for the petitioner is that the Government had issued G.O.Ms.No.1 dated 04.01.2018, which included the concerned office within the jurisdiction of Chennai District, with effect from 04.01.2018. Prior to the said date, the petitioner's office was very much within the jurisdiction of the Chengalpattu District. Therefore, the very inspection conducted in the year 2017 is without jurisdiction and the very charge memo emanating from it cannot stand.



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3. The learned counsel would further submit that all the other charges are in the nature of the consequential charge of the first charge. As a matter of fact, the learned counsel would submit that the petitioner does not have a two wheeler at all. The respondents without even application of mind, charged the petitioner that he had an unaccounted cash of Rs.45,500/-. In any event, when the surprise check is without jurisdiction, all the other charges have to fall like nine pins and therefore, the impugned charge memos have to be interfered with. The learned counsel for the petitioner would rely upon the Judgment of the Hon'ble Supreme Court in ***Avtar Singh & Anr. Vs. State of Punjab***¹, more specifically relying upon paragraph Nos.15 and 16, which reads as follows:-

“15.It is a settled law that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods are necessarily forbidden. Reference can be made to ***Dharani Sugars and Chemicals Ltd. Vs. Union of India and Ors.*** Reported in ***(2019) 5 SCC 480.***

16.In the absence of the authority and power with the Sub-Inspector to take action as per the Order, the proceedings initiated by him will be totally unauthorised and have to be struck down.”

¹ 2023 LiveLaw (SC) 272



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4. The said contentions are opposed by the learned Additional Government Pleader and would submit that no grounds are made out to quash the charge memos and the explanations which are all given on the question of facts, have to be considered by the disciplinary authority, during the disciplinary enquiry alone.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. The question as to the jurisdiction is not raised relating to the charge memos but to the inspection conducted pursuant to which the charges are issued. In that view of the matter, the said fact may be a piece of evidence for the petitioner to raise before the respondents during the disciplinary proceedings. In any event, there are other charges also which are not connected with charge No.1. The explanation is offered on the facts and circumstances and it is pleaded that the petitioner is innocent of



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charges and in that view of the matter, the Court cannot come to the aid of the petitioner in the judicial review and the scope of interference with the charge memos is very limited to the question of jurisdiction or malafide. The other pleas of defense have to be raised before the disciplinary authority only. The petitioner has already submitted an explanation to the charge memos. It is for the respondents, the disciplinary authority to consider the same on its own merits and in accordance with law.

7. Therefore, the Writ Petition is disposed of with the following directions:-

(i) The challenge to the charge memorandums dated 03.05.2022 and 28.09.2022 stand negatived;

(ii) The petitioner has already submitted explanation to the charge memorandums and it is for the respondents to consider the same and pass orders either dropping the charges or in case, the respondents choose to proceed further with the enquiry, the same shall be conducted expeditiously, in any event, not later than three months from the date of receipt of a copy



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of this order.

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(iii) No costs. Consequently connected miscellaneous petitions are closed.

17.04.2024

Index : Yes
Neutral Citation : No
Speaking order : Yes

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To

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D.BHARATHA CHAKRAVARTHY, J.

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