



WEB COPY



W.A.No.3452 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.11.2024

Coram:

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.No.3452 of 2024
and C.M.P.No.26820 of 2024**

- 1.The Commissioner of Police,
O/o. The Commissioner of Police,
Greater Chennai Police,
Veppery, Chennai – 07.
- 2.The Additional Commissioner of Police,
O/o. The Commissioner of Police,
Greater Chennai Police,
Veppery, Chennai – 07.
- 3.The Joint Commissioner of Police,
O/o. The Joint Commissioner of Police East Zone,
Greater Chennai Police,
Egmore, Chennai – 08.
- 4.The Deputy Commissioner of Police,
O/o. The Deputy Commissioner of Police,
CCB (Admin), Greater Chennai Police,
Veppery, Chennai – 07.

...Appellants

Versus



W.A.No.3452 of 2024

P.S.Muralidharan (6913),
Working as Sub Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 007.

...Respondent

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 07.11.2023 made in W.P.No.14937 of 2022 and allow the above writ appeal.

For Appellants	:	Mr.Haja Nazirudeen Additional Advocate General Assisted by Mr.M.Venkateswaran, Special Government Pleader
For Respondent	:	Mr.G.Vigneswaran Assisted by Mr.P.Vasantha Kumar

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.**)

This intra Court Appeal is directed against the impugned order dated 07.11.2023 passed by the Writ Court in W.P.No.14937 of 2022.



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2. By impugned order, the Writ Court has allowed the above writ petition filed by the respondent/writ petitioner. The operative portion of the impugned order reads as under:

“15. All the above decisions are self explanatory. Thus, when the delay of 20 long years in framing the charges has not been properly explained, the same can be considered to be inordinate in nature and consequently, in line with the aforesaid decisions, the charge memo itself cannot be sustained.

16. In the result, the charge memo in PR.No.19/EZ/2022 issued by the 3rd respondent dated 18.05.2022 is quashed. Consequently, there shall be a direction to the first respondent to pass appropriate orders, notionally retiring the petitioner from service on the date of his attaining the age of superannuation and disburse all the retirement-cum-pensionary benefits. Such orders shall be passed within a period of six weeks from the date of receipt of a copy of this order.

17. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.”

3. In the aforesaid writ petition, the respondent/writ petitioner has challenged the Charge Memo bearing PR.No.19/EZ/PR/2022 dated 18.05.2022 and impugned Suspension Order bearing



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Rc.No.PR.I(1)/CPO/18/3156/2015 CPO.1461/2022 dated 25.02.2022 issued

by the 3rd appellant and the consequential order bearing

Rc.No.PR.I(1)/CPO/18/3156/2015 CPO.1504/2022 dated 31.05.2022 issued

by the 2nd appellant herein, declining to allow the respondent/writ petitioner from service.

4. The respondent/writ petitioner was proceeded criminally before the Special Court for Prevention of Corruption under C.C.No.127 of 2011. The trial Court had acquitted the respondent/writ petitioner on 28.02.2019. As against the judgment of the Special Court for Prevention of Corruption Act, acquitting the respondent/writ petitioner, the appellants have preferred an appeal in CrI.A.No.409 of 2020 and the same is said be pending before this Court.

5. The Writ Court has taken note of the various decisions of the Honourable Supreme Court as well as of this Court and has come to a conclusion that the impugned Charge Memo bearing PR.No.19/EZ/PR/2022 dated 18.05.2022 was issued 20 years after the date of alleged occurrence of



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delinquency on 03.07.2002. Various decisions referred by the Writ Court

are as follows:

(i) Order passed by this Court in the case of Kootha Pillai Vs. The Commissioner, Municipal Administration & 4 Ors. (W.P.No.15231 of 2006 dated 05.11.2008)

(ii) State of Madhya Pradesh Vs. Bani Singh & Anr. Reported in 1990 (Supp) SCC 738

(iii) State of Andhra Pradesh Vs. N.Radhakrishnan reported in 1998 (4) SCC 154

(iv) Union of India Vs. CAT reported in 2005 (2) CTC 169 (DB)

(v) P.V.Mahadevan Vs. M.D.Tamil Nadu Housing Board reported in 2005 (4) CTC 403

(vi) The Special Commissioner & Commissioner of Commercial Taxes, Chepauk Vs. N.Sivasamy reported in 2005 (5) CTC 451

(vii) R.Tirupathy & Ors. Vs. The District Collector, Madurai District and Ors. reported in 2006 (2) CTC 574

(viii) M.V.Bijlani Vs. Union of India & Other reported in 2006 (5) SCC 88



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(ix) M.Elangovan Vs. The Trichy District Central Co-operative

Bank Ltd., reported in 2006 (2) CTC 635

(x) Parameswaran Vs. State of Tamil Nadu reported in 2006 (1)

CTC 476

6. We have considered the arguments advanced by the learned counsel on either side. We have perused the records and impugned order and also, the decisions referred to *supra*.

7. A law has been settled by the Honourable Supreme Court holding that there is no justification in issuing the charge memo after a predominantly long period of time. It has been held protracted disciplinary enquiry against a Government employee also has to be avoided.

8. As far as this case is concerned, the respondent/writ petitioner was aged about 60 years on the date of issuance of the Charge Memo and at the time of institution of writ petition in the year 2022. The suspension order was also issued some time just before the respondent/writ petitioner was to



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retire from service. It appears that the respondent/writ petitioner was kept in suspension for several months and thereafter, reinstated.

9. We are therefore of the view that there is no justification in issuance of the charge memo belatedly at the fag end of the career of the respondent/writ petitioner delinquent. We do not find any reason to interfere with the well considered decision of the Writ Court in the impugned order passed by the Writ Court. Hence, this Writ Appeal is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(C.S.N., J.)

28.11.2024

mrr

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order



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