



W.P.(MD).No.11169 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P.(MD).No.11169 of 2013
and
M.P.(MD).Nos.1 & 2 of 2013

K.Shobana

... Petitioner

Vs.

1.The Assistant Registrar (Law),
Tamil Nadu State Human Rights Commission,
Thiruvaramangam,
No.143, P.S. Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

2.The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.

3.R.Deva Narayanan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, calling for the records relating to the impugned order passed by the State Human Rights Commission in SHRC No.5085/2005/C2 dated 04.06.2013 and quash the same.



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For Petitioner : Mr.K.Samidurai
For R-1 & R-2 : Mr.SRA.Ramachandhran
Additional Government Pleader
For R-3 : No appearance

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The order of the State Human Rights Commission, Tamil Nadu dated 04.06.2013, is put under challenge in the present Writ Petition.

2. Though the Commission had ordered the Government to pay compensation of Rs.60,000/-, with a consequential direction to recover a sum of Rs.50,000/- out of the said compensation from the petitioner, it had also recommended for initiation of departmental disciplinary action against the petitioner herein. The learned counsel for the petitioner would submit that they are aggrieved against only that portion of the order of the Commission, which recommends for departmental disciplinary action.

3. When a specific query was put to the learned Additional Government Pleader appearing for the official respondents as to the stage of departmental



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disciplinary action pursuant to the directions issued on 04.06.2013, he would submit on oral instructions that charges are yet to be framed against the petitioner herein.

4. We find from the records that though the Writ Petition was filed in the year 2013, there was no interim stay granted by this Court and therefore, there was no impediment on the part of the official respondents to have acted upon the directions of the Commission to initiate departmental disciplinary action against the petitioner. 11 years have lapsed since such recommendations were made and the official respondents are yet to act upon the same.

5. The Hon'ble Supreme Court has frowned upon such cases, where there is an inordinate delay in initiation of disciplinary proceedings. Some of the decisions of the Hon'ble Supreme Court and this Court are as follows:

(i) In *State of Madhya Pradesh v. Bani Singh and another reported in 1990 (Supp) SCC 738*, the Supreme Court had come down heavily against the laches on the part of the employer in conducting departmental enquiry and after finding out that there was no satisfactory explanation for the inordinate delay, held that it would be unfair to order departmental enquiry to proceed further.



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(ii) In ***Union of India v. CAT reported in 2005 (2) CTC 169 (DB)***, this Court held that,

"The delay remains totally unexplained. Therefore, we have no hesitation at all in concluding that the ground of inordinate delay in proceeding with the departmental enquiry as referred to above by us, would come in the way of the Govt., to continue with the enquiry any further....."

(iii) In ***P.V.Mahadevan v. M.D. Tamil Nadu Housing Board reported in 2005 (4) CTC 403***, this Court after referring to various decisions, held that,

"The protracted disciplinary enquiry against a government employee should, therefore be avoided not only in the interest of the government employee but in public interests and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

15. We therefore, have no hesitation to quash the charge issued against the appellant. The appeal is allowed. The appellant will be



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entitled to all the retiral benefits in accordance with law. The retiral benefits shall be disbursed within three months from this date. No cost."

(iv) In *The Special Commissioner and Commissioner of Commercial Taxes, Chempauk v. N.Sivasamy* reported in 2005 (5) CTC 451, the Division Bench of this Court held as follows:

"Though the alleged lapse occurred in the year 1995 and certain charges related to the period 1993-94, the charge memo was issued on 15.07.1997 and served on 23.07.1997, just 7 days before the date of retirement. The contention of the appellant that only with a view to cause hardship, agony and anguish, the charge memo was issued cannot be ignored..... We have already pointed out that though the applicant failed Original Application No.6284/97, challenging the charge memo, dated 15.07.1997, admittedly, no stay was granted. Despite the above fact that the department had not proceeded with the disciplinary proceedings, there is an inordinate and unexplained delay on the part of the department. According to the applicant, he is 67 years of age as on the date and had rendered 38 years of service in the department. He had undergone sufferings from mental worry, agony, anguish and hardship for all these years. We are satisfied that there is no need to pursue the charge memo, dated 15.07.1997."



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(v) In yet another decision in ***R.Tirupathy and others v. the District Collector, Madurai District and others reported in 2006 (2) CTC 574***, this Court was pleased to quash the charge memo, dated 02.02.2005 on the ground that the charges relate to purchase of uniforms during the year 1994-95 and 1995-96 and the inordinate delay on the part of the department in issuing a charge memo was not properly explained.

(vi) The Supreme Court in ***M.V.Bijlani v. Union of India and other reported in 2006 (5) SCC 88***, quashed the order of removal from service, confirmed by the appellate authority on various grounds particularly, on the ground that initiation of disciplinary proceedings after six years and continuance thereof, for a period of seven years prejudiced the delinquent officer.

(vii) In ***M.Elangovan v. The Trichy District Central Co-operative Bank Ltd., reported in 2006 (2) CTC 635***, this Court, while quashing the second show cause notice on the ground of inordinate and unexplained delay in initiating and completing the disciplinary proceedings, allowed the Writ Petitions holding that the petitioners therein were entitled to all the benefits in accordance with law. The same view has been expressed by this Court in yet



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another decision in *Parameswaran v. State of Tamil Nadu reported in 2006*

(1) CTC 476.

By applying the above principles laid down by the Hon'ble Supreme Court and this Court, we are of the view that the inaction on the part of the respondents to frame the charges itself, over a period of 11 years, is hit by delay and laches.

6. This apart, the Commission ought not to have recommended initiation of departmental disciplinary action against the petitioner, after having already imposed a penalty by ordering for payment of compensation, a portion of which was ordered to be recovered from the petitioner. This direction to initiate departmental disciplinary action may amount to a double punishment, which is impermissible in service jurisprudence. On this ground also, the direction of the Commission to initiate departmental disciplinary action against the petitioner, requires interference.

7. For all the foregoing reasons, the impugned order of the State Human Rights Commission, Tamil Nadu dated 04.06.2013, insofar as it recommends the official respondents herein for initiating departmental disciplinary action against the petitioner, is set aside. The other observations and the directions in the impugned order, shall remain intact.



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8. Accordingly, the Writ Petition stands partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(M.S.R.,J.) (A.D.M.C.,J.)
08.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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