BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.15407 of 2024

K.Deivendran

... Petitioner

Vs

1. The Principal Secretary to Government,
Revenue and Disaster Management Department,
Tamil Nadu Secretariat, Chennai 600 009.

2. The Additional Chief Secretary /
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

3. The Commissioner (F.A.C),
Tribunal For Disciplinary Proceedings,
5/1-B, Vinayaga Nagar,
Madurai -20.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus call for the records relating to the impugned Charge Memo passed by the 3rd respondent vide disciplinary proceedings in ROC.No. A1/139/2021 (TDP.14/2021), dated 26.04.2022 and quash the same as illegal and consequently direct the respondent no. 1 and respondent no. 2 to send the pension proposals to the Accountant General, Chennai within a specified time frame.

For Petitioner : Mr.K.Lenin

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

Heard Mr.K.Lenin, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate, for the respondents.

2.This Writ Petition has been filed challenging the impugned Charge Memo passed by the 3rd respondent vide disciplinary proceedings in ROC.No. A1/139/2021 (TDP.14/2021), dated 26.04.2022 and consequently direct the respondent no. 1 and respondent no. 2 to send the pension proposals to the Accountant General, Chennai within a specified time frame.

3.The argument of the petitioner is that the petitioner has been given with the same charge twice. Hence, it is hit by the principles of double jeopardy. Earlier, the petitioner has been given with the earlier charges on the same allegation in the year 2015. vide Pani.2(4)/31629/2014, dated 15.04.2015. The petitioner has challenged the same by way of preferring a writ petition in W.P(MD) No. 9007 of 2015 and the same was allowed. Challenging the same, a writ appeal was filed by the respondents and the same was also dismissed.

4.The subject matter of the charges is the issuance of Nativity Certificate on 21.08.1998 and 11.09.1998. Since action has been initiated after 17 years, this Court thought it fit to quash the earlier writ petition. Subsequently the petitioner was allowed to retire on 30.06.2015 subject to the pending disciplinary proceedings. The petitioner has been given with impugned charge, dated 26.04.2022 by alleging that the petitioner has collected 'Mamool' from the Salesman in the Fair Price Shop, and thus failed to maintain absolute integrity in service.

5.Even for the charge now raised, the petitioner has already been subjected to disciplinary proceedings and at the conclusion of disciplinary proceedings, he has been awarded with the punishment of stoppage of increment for a period of 3 months with cumulative effect.

6.Though the above punishment does not commensurate with the allegation of corruption, the fact remains that the disciplinary proceedings has been completed by imposition of above the punishment. Now, the very same charges have been given once again made in respect of very same allegation of receiving the bribe from the very same persons, who are involved in the earlier disciplinary proceedings as well. Since the impugned charge memo has been given just by repeating the earlier charges and that too, when the petitioner was allowed to retire, it is a wasteful re-exercise.

7.Since the earlier charge has been culminated into a punishment, there is no question of issuing the same charge memo, which is illegal. Hence, it is not maintainable.

8.In view of the same, this writ petition stands allowed and the impugned Charge Memo of the 3rd respondent in ROC.No. A1/139/2021 (TDP. 14/2021), dated 26.04.2022 is hereby quashed and the respondents 1 & 2 are directed to send the pension proposals to the Accountant General, Chennai within a period of four weeks from the date of receipt of copy of this order. No costs.

15.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM

To

1. The Principal Secretary to Government,
Revenue and Disaster Management Department,
Tamil Nadu Secretariat, Chennai 600 009.

2. The Additional Chief Secretary /
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005.

3. The Commissioner (F.A.C),
Tribunal For Disciplinary Proceedings,
5/1-B, Vinayaga Nagar,
Madurai -20.

R.N.MANJULA, J.

PNM

ORDER IN
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