



W.P(MD)No.8180 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED: 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8180 of 2018 and
WMP(MD) No.7731 of 2018

M.Raja

... Petitioner

Vs

1.The Enquiry Officer/Commissioner for Disciplinary
Proceedings,
O/o Tribunal for Disciplinary Proceedings,
1st Floor, Old Collectorate Building,
Tiruchirappalli – 620 001.

2.The District Collector /Disciplinary Authority,
Tiruvarur District, Collectorate,
Tiruvarur – 610 004.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the first respondent/enquiry officer/Commissioner for Disciplinary Proceedings, in his letter, dated 10.10.2017 in TDP Case No.3/2017 and quash the same as illegal.



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For Petitioner : Mr.B.S.Meltine
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

The petitioner, who was working as a Deputy Block Development Officer in the office of the Block Development Office, Mannargudi, Thiruvarur District was suspended from service on 18.07.2013 by the District Collector /Disciplinary Authority, Tiruvarur District that the petitioner has purchased certain movable and immovable properties, without getting prior permission from the Department. Therefore, the petitioner was issued with a charge memo in Na.Ka.No.3815/2013/A2 (Development), dated 20.08.2013, under the Tamil Nadu Civil Service (Discipline and Appeal) Rules, by the Disciplinary Authority/the second respondent herein. On proved charges, he was imposed with a punishment of "stoppage of increment for a period of six months without cumulative effect", by the second respondent in his proceedings in Na.Ka.No.3815/2013/A2(Development), dated 24.10.2014.



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According to the petitioner, disciplinary proceedings has been once again initiated as against the petitioner in TDP Case No.3 of 2017, for charge Nos.9,10,11 and 12, framed in the earlier charge memo, dated 20.08.2013 and he was directed to appear before the Tribunal for Disciplinary Proceedings, Trichy on 10.11.2017 and 02.04.2018. According to the petitioner, the respondents are attempting to conduct another disciplinary proceedings on the very same set of charges, which have already been culminated into order of punishment, dated 24.10.2014. Challenging the same, the petitioner is before this Court.

2.The learned counsel appearing for the petitioner submits that as per Rule 5(b) (i) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, if any proceedings has to be initiated as against the erring officer, it can be initiated after consulting with the Head of the Department concerned and if necessary, decide whether the case shall be tried in Court of law or by the Tribunal or by the Departmental authority concerned.



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However, in this case, no such permission has been obtained in the petitioner's case, before proceeding with the Tribunal. According to the learned counsel, the second respondent has not consulted with the Head of the Department before summoning this petitioner. The primary test of *res judicata* would apply and there cannot be any further proceedings on the same set of charges, which have already been culminated into punishment.

3.The learned counsel further submits that as per Rule 9 of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, in conclusion of the proceedings, if any penalty needs to be imposed on the person charged, it shall be done by the Government or the Head of the Department. In this case, the Head of the Department, namely the second respondent has been shown as a witness in the proceedings.

4.The learned Additional Government Pleader appearing for the respondents submits that the order impugned in this writ



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petition is only a notice, calling upon this petitioner for his appearance in TDP case No.3 of 2017. This proceedings was initiated as against this petitioner, based on the report filed by the Deputy Superintendent of Police, Vigilance and Anti Corruption Department, Thiruvarur, that this petitioner has accumulated assets disproportionate to his income. Therefore, the Government has decided to conduct an enquiry by the Tribunal for Disciplinary Proceedings and referred the matter to the Tribunal vide Government Letter No.(D)298/E2/2017, dated 08.06.2017. Consequently, the first respondent herein has issued a charge memo, in TDP Case No. 3/2017, dated 10.10.2017. Since the Government have taken a decision to conduct the case through the Tribunal for Disciplinary proceedings, there is no question of consulting with the Head of the Department. The learned Additional Government Pleader further submits that though the petitioner was dealt with a charge memo, under Rule 17 (b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules, vide RC.No.3815/2013/A2, dated, 20.08.2013, the same is for misconduct of this petitioner under Tamil Nadu Civil



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Service (Discipline and Appeal) Rules that without obtaining prior permission, he has purchased certain movable and immovable properties in his name and his wife's name. Now, the charges framed by the Tribunal in TDP No.3 of 2017 relates to acquisition of disproportionate assets by the petitioner beyond the legitimate income, during the period from 01.01.2002 to 31.12.2012. Since the charges dealt with by the second respondent and the charges framed by the first respondent is entirely different, there is no need to quash the present notice in TDP No.3 of 2017, dated 10.10.2017.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner, a Deputy Block Development Officer working in the office of the Block Development Office, Mannargudi, Thiruvarur District was dealt with the disciplinary proceedings that he has purchased certain movable and immovable properties, without getting prior permission from the Department



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and on completion of enquiry, he was imposed with a punishment of "stoppage of increment for a period of six months without cumulative effect", by the second respondent in his proceedings in Na.Ka.No.3815/ 2013/A2 (Development), dated 24.10.2014. Thereafter, the petitioner was once again issued with a charge memo by the first respondent in TDP No.3 of 2017 and he was directed to appear before the Tribunal for Disciplinary Proceedings, Trichy. According to the petitioner, for the charges Nos.9,10,11 and 12 in the earlier charge memo, dated 20.08.2013 which have been framed as against this petitioner, a punishment has already been imposed on him. However, on the same set of charges, he was once again dealt with the disciplinary proceedings by the first respondent. According to the respondents, on the allegations of not obtaining prior permission for purchase of movable and immovable properties, the petitioner has been dealt with and imposed with a punishment. The present charges are meant for acquisition of disproportionate assets by the petitioner beyond the legitimate income, during the period from 01.01.2002 to 31.12.2012. It appears that a preliminary enquiry



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was conducted by the Deputy Superintendent of Vigilance and Anti Corruption Department and a report has been forwarded by him to the Government by a Government Letter in D.No.298, dated 08.06.2017, based on which, the first respondent has initiated proceedings in TDP No.3 of 2017. More over, the order impugned in this writ petition is only a notice, in and by which, the petitioner was called for to appear before the Tribunal for Disciplinary proceedings, Trichy. Rule 8(a)(i) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955 stipulates certain procedures to be followed while conducting enquiries and the same is as under:-

8. (a)(i) Notwithstanding anything contained in rule 17 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the following procedure shall be adopted by the Tribunal in conducting enquiries in cases of corruption and also in cases of corruption combined with other charges. As soon as the records relating to allegations of corruption or of corruption combined with other charges against a Government servant are received, the Tribunal shall frame appropriate charges, communicate them to the person charged together with list of witnesses likely to be



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examined in respect of each of the charges, copies of the complaints made by the complainants, copies of statements taken from the witnesses which form the basis on which the Tribunal has framed the charge or charges against him and with information as to the date and place of enquiry. At the enquiry, oral and documentary evidence shall be first adduced by the prosecution and person charged shall be entitled to cross-examine the prosecution witnesses and to explain any documents produced by the prosecution.

The person charged shall thereafter, within the time allowed by the Tribunal, file a written statement of his defence along with a list of witnesses whom he wishes to examine, stating the points on which he proposes to examine each of them, provided that he need not so specify the points for examination in his own case, when he wishes to examine himself as well. The oral and documentary evidence on his side shall then be adduced. After the enquiry is completed, the Tribunal shall hear the Prosecutor for Disciplinary Proceedings and the person charged or permit them to file the written briefs of their respective cases, if they so desire. A copy of the written brief, if submitted by the Prosecutor for Disciplinary Proceedings, shall be served on the person charged, before he is required to submit his reply written brief. The Tribunal shall, as far as possible, observe the basic rules of evidence relating to the examination of witnesses and the marking of documents.



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(ii) For sufficient reasons to be recorded in writing, the Tribunal shall have power to refuse to call a witness on either side, or to summon, and examine any further witnesses, or to call for, and exhibit any further documents. The proceedings of the Tribunal shall contain a sufficient record of the evidence.

(b) Where the officer concerned has absconded or where it is for other reasons impracticable to communicate with him or where he does not take part in an enquiry, the enquiry shall still proceed.

(c) All or any of the provisions of sub-rule (a) may, in exceptional cases, for special and sufficient reasons to be recorded in writing, be waived by the Tribunal where there is difficulty in observing the requirements of that sub-rule and the requirements can be waived without injustice to the person charged.

(d) The provisions of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shall apply - (i) in regard to the procedure to be followed in cases other than those of corruption; and (ii) in regard to any other matter for which no specific provision has been made in these rules.

7. In view of the above, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. The petitioner is at liberty to raise all the grounds raised



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in this writ petition before the Tribunal. No costs. Consequently,
connected Miscellaneous Petition is closed.

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NCC:Yes/No

Index:Yes

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