



W.A(MD)No.93 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.93 of 2023
and
C.M.P(MD)No.1343 of 2023**

G.Vasu

... Appellant/Writ petitioner

-VS-

1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Chennai – 5.

2.The Director/Commissioner,
Rural Development and Panchayat Raj Department,
Chennai – 5.

3.The District Collector,
Office of the District Collectorate,
Thanjavur District.

4.The Project Director,
Rural Development and Panchayat Raj Department,
Office of the Collectorate,
Thanjavur District.

... Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 12.04.2022 made in W.P(MD)No.19909 of 2020 and quash the proceedings of the second respondent dated 27.06.2019 in Proc.No. 30570/2019/EE 1.2 and the proceedings of the 3rd respondent dated 20.06.2019 in Rc.No.9120/2009/K4 and subsequently directing the



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respondents to pay all monetary and retirement benefits.

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For Appellant : Mr.S.Ramasundarvijayaraj

For Respondents : Mr.SRA.Ramachandran,
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Challenging the order of Writ Court dated 12.04.2022 made in W.P(MD)No.19909 of 2020, the appellant/writ petitioner is on appeal.

2. Rejection of the challenge to a charge memo issued by the Department on 20.06.2019 by the petitioner has led to this appeal.

3. The appellant was charged with offence under the Prevention of Corruption Act, 1988 in a trap case. A charge memo was issued to the petitioner on 02.05.2012. Simultaneously, criminal action was also taken. Even during the pendency of the enquiry proceedings, the appellant was found guilty by the criminal Court and was convicted. However, on appeal, the conviction was reversed and the appellant was acquitted of the offences. After the disposal of the appeal, a fresh charge memo was issued on 20.06.2019 and the same was challenged in the writ petition.

4. The learned single Judge has dismissed the writ petition mainly on the ground that the conclusions of the criminal Court will not be a bar to



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the Department to proceed with the disciplinary action and therefore, the charge memo cannot be quashed.

5. We have heard Mr.S.Ramsundarvijayaraj, learned counsel for the appellant and Mr.SRA.Ramachandran, learned Additional Government Pleader for the respondents.

6. The learned counsel for the appellant would contend that the earlier charge memo dated 02.05.2012 and the charge memo impugned in the writ petition dated 20.06.2019 are exactly the same. Having not proceeded with the earlier charge memo, it is not open to the Department to issue a fresh charge memo by changing the date. He would also add that acquittal by the criminal Court though not binding on the authority, would be a piece of evidence before the Disciplinary Authority.

7. Contending contra, Mr.SRA.Ramachandran, learned Additional Government Pleader would submit that the earlier charge memo was not proceeded with because of the intervening conviction which resulted in the dismissal of the employee. Hence, a second charge memo was issued in the year 2019 without attempting to complete the enquiry on the basis of the charge memo issued in the year 2012. He would further submit that after the acquittal by the appellate Court, the charge proceedings are resurrected on the basis of the charge memo issued in the year 2012 and the same were completed and proposed punishment has been sent to the Government for



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approval since the delinquent employee has retired by then.

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8. Once it is admitted that earlier charge memo was issued in the year 2012 and enquiry pursuant to the same is completed, we do not see any need for issuance of a second charge memo in the year 2019 after the disposal of the criminal case. Admittedly, enquiry on the basis of the first charge memo issued on 02.05.2012 has been completed and the same awaits approval of the Government. In such situation, we are unable to sustain the order of the learned single Judge concluding that both the enquiries can go on simultaneously. Once it is found that the charges are the same, the second charge memo for the same set of charges cannot be sustained.

9. In view of the above, this writ appeal is allowed and the order of the Writ Court dated 12.04.2022 made in W.P(MD)No.19909 of 2020, is set aside. The charge memo dated 20.06.2019 is also set aside. This will not preclude the Government from proceeding with the enquiry on the basis of the charge memo dated 02.05.2012. No Costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.M., J.]
22.08.2024

[L.V.G., J.]

NCC :Yes/No



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Index :Yes/No

Internet:Yes

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