



WP(MD)No.29765 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.29765 of 2024

and

WMP(MD)Nos.25091 and 25093 of 2024

M. Kannathasan

... Petitioner

Vs

**1.The Principal Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St George, Secretariat, Chennai - 9.**

**2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road , Chennai – 34. ...Respondents**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Letter No. 6787968 /Ane 2-2/2024- 2, dated 30.07.2024, whereby rejected the request of petitioner to convert the charges framed under Rule 17(b) into the charges as that of one under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and quash the same as illegal and unreasonable, consequently direct the respondents to give promotion to the petitioner as Deputy Commissioner of Hindu Religious and Charitable Endowment Department invoking



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Section 47 of the Tamil Nadu Government Servants (Conditions of Services) Act, 2016.

For Petitioner : No representation

For Respondents : Mr.P.Subbaraj,
Special Government Pleader

ORDER

The petitioner an Assistant Commissioner working in the Office of the 2nd respondent / the Commissioner of Hindu Religious and Charitable Endowments Department, Chennai has filed this writ petition as against the orders of the 1st respondent / Principal Secretary Hindu Religious and Charitable Endowments Department, rejecting the request of the petitioner to convert the charge framed as against this petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules to a charge under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules [TNSC(D&A) Rules].

2.The grievance of the petitioner is that his juniors were promoted as Deputy Commissioner vide GO.No.120, Tourism, Culture and Religious Endowments dated 02.06.2023. However he was not



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considered for promotion in view of the charge memo in Na.Ka.No.4472/2020/B-1, which was issued against him under Rule 17(a) of the TNCS (D&A) Rules on 21.02.2020 for the alleged delinquencies said to have been committed, while he was serving as the Executive Officer of Arulmigu Subramanyaswamy Thirukovil, Sivanmalai, Tiruppur district. Subsequently he was imposed with a punishment of stoppage of increment without cumulative effect for two years by order dated 09.06.2020. The petitioner challenged the order of punishment by way of appeal and it was dismissed. Subsequently this Court modified the punishment as 'censure' in WP(MD)No.1342 of 2023 vide order dated 24.09.2024. However in view of the pendency of the charge memo dated 21.02.2020, he was not considered for promotion. Now once again he has been issued with a charge memo dated 25.08.2023 under Rule 17(b) of the TNCS (D&A) Rules that the petitioner has committed certain irregularities, while he was working as Executive Officer of Arulmigu Kutralanathaswamy Temple, Courtallam. The charges levelled in the charge memo dated 25.08.2023 according to the petitioner do not attract action under Rule 17(b), but only under Rule 17(a) of the TNCS (D&A) Rules. Therefore, the petitioner has made



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a request to the respondents to convert the charge into Rule 17(a) of the TNCS (D&A) Rules and it was rejected. Therefore, the petitioner is before this court with the above prayer.

3.The impugned order was passed on 30.07.2024 and this writ petition has been filed on 06.12.2024. This writ petition is listed today for admission. When the writ petition was taken up for hearing there was no representation for the petitioner. Therefore, the matter was passed over and again it is taken up at 3.00pm for hearing. Even now there is no representation for the petitioner.

4.In the morning the learned Special Government Pleader was directed to inform the Counsel on record for the petitioner about listing and passing over of this petition. The learned Special Government Pleader also confirms that he has intimated the same to the Counsel for the petitioner. However the learned Counsel for the petitioner is not prepared to appear before this Court. The petitioner having filed the writ petition, since it has been listed before this Court, has intentionally evaded the appearance before this Court.



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5.The learned Special Government Pleader has referred to the earlier orders of this Court and submits that the disciplinary proceedings was initiated as against this petitioner pursuant to the observations of this Court made in WP(MD)No.26299 to 26302, 28030 and 28031 of 2023 by order dated 29.11.2023, wherein this Court while dealing with a issue pertaining to Arulmigu Kutralanathasway Temple, Courtallam has recorded the findings of the Food Safety Officer, Tenkasi Block by *suo motu* impleading him by order dated 29.11.2023. The Food Safety Officer has filed a report that the prasadam in the said temple was prepared in an unhygienic manner and without any licence. Therefore, the Food Safety Officer has taken action as against the temple administration. Even after initiation of action by the Food Safety Officer, the petitioner / then Executive Officer of the said temple did not rectify the mistake. Therefore, the department has initiated disciplinary proceedings by issuing a charge memo under Rule 17(b) of the TNCS (D&A) Rules. The petitioner challenged the charge memo in WP(MD)No.27170 of 2023, wherein this Court by order dated 29.04.2024 disposed of the writ petition with a direction to the respondents to complete the enquiry within a period of four weeks from



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the date of receipt of a copy of the order. However the disciplinary proceedings was not concluded in time as directed by this Court.

While so, the petitioner has filed a contempt petition in Cont P(MD)No.2502 of 2024 and the same was closed by this Court by order dated 22.11.2024 considering on the conduct of the petitioner's request for change of enquiry officer and the government's order dated 12.11.2024 appointing another enquiry officer based on the petitioner's request. According to the learned Special Government Pleader since a new enquiry officer has been appointed on 12.11.2024, the enquiry is yet to be completed.

6.The learned Special Government Pleader submits that the petitioner already challenged the charge memo dated 25.08.2023 in WP(MD)No.27170 of 2023, in which he had not taken any such a ground taken in this writ petition and the grounds raised by the petitioner were rejected by this Court. However now this writ petition has been filed to convert the charge.



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7.This Court considered the submission of the learned Special Government Pleader and perused the affidavit filed in support of the writ petition and the impugned order.

8.The petitioner was issued with a charge memo under Rule 17(b) of the TNCS (D&A) Rules on 25.08.2023. The petitioner with a grievance that the charge ought to have been framed under Rule 17(a) of the TNCS (D&A) Rules has submitted a representation to the respondents and it was rejected by the impugned order. Therefore, the petitioner has filed this writ petition. It appears that this charge memo was issued based on the information provided before this Court in WP(MD)No.26299 to 26302 of 2023, etc batch., Apart from the said charges, this Court has recorded the allegation of the petitioners therein that one of the lessees has bribed this petitioner / then Executive Officer to an extent of Rs.5 lakh for allotment of temple shops without any licence. However the department has preferred to issue the charge memo only for non-obtaining licence from the Food Safety Officer. Anyhow it is upto the department to take a call on the same. The petitioner has challenged the charge memo dated 25.08.2023 in WP(MD)No.27170 of



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2023, wherein this Court has by order dated 29.04.2024 directed that necessary orders have to be passed within a period of four weeks.

In the meantime on 04.09.2024 the petitioner has requested to change the enquiry officer and accepting his request the government has changed the enquiry officer on 12.11.2024. It appears that the petitioner has also filed a contempt petition in Cont P(MD)No.2502 of 2024, wherein this Court has recorded the request made by the petitioner for change of enquiry officer accepted by the government by changing the enquiry officer and closed the contempt petition.

9.The petitioner had already challenged the charge memo dated 25.08.2023 in WP(MD)No.27170 of 2023 and he has not taken any ground that the charges are wrongly framed under Rule 17(b) of TNCS(D&A) Rules. While so the petitioner has approached this Court with this writ petition with this new ground. This Court is of the view that this writ petition is filed in order to drag on the disciplinary proceedings. Therefore, this Court is not inclined to interfere with the impugned order.



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10.In the result, this writ petition is dismissed. No costs.

Consequently connected miscellaneous petitions are closed.

10.12.2024

DSK

To

- 1.The Principal Secretary to Government,
Hindu Religious and Charitable Endowments Department,
Fort St George, Secretariat,
Chennai - 9.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam High Road,
Chennai – 34.



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B.PUGALENDHI.J.,

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