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W.P.No.272 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 272 of 2023

&

W.M.P.Nos. 264 & 14274 of 2023

K.Dakshinamoorthy

...Petitioner

Vs.

The Deputy Director

Fire and Rescue Service Department

North Western Region,

Vellore District.

...Respondent

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for issue of Writ of Certiorarified Mandamus, calling for the records and quash the impugned charge memo issued by the respondent vide Ku.Pa.No.05/2022 dated 13.05.2022, directing the petitioner to face disciplinary proceedings after 10 years after the alleged incident took place and 8 years after attaining the age of the petitioner's superannuation under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1973.



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For Petitioner : Mr. K.Ravi Anantha Padmanabhan
Senior Counsel
For Mrs.P.Rajalakshmi

For Respondent : Mr. P.Ananda Kumar
Government Advocate

ORDER

This writ petition is filed to quash the charge memo dated 13.05.2022, issued to the petitioner. The brief facts which gives raise to this writ petition is briefly set out herein below.

2. The petitioner had joined the services of the Fire Service Department as a Fire Man on 23.04.1980 and was promoted as a Leading Fireman in the year 1990. He was not allowed to retire in view of pendency of the criminal proceedings in CC.No.15 of 2014, on the file of the Chief Judicial Magistrate, Chengalpattu. The allegation against the petitioner both in criminal proceeding and departmental proceeding is that he demanded a sum of Rs.3,000/- from the *de facto* complainant, i.e., Diwakar, for recommending issue of “*No Objection Certificate*” from the Fire Service Department for his factory.



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3. The petitioner would submit that the very allegation made in the complaint is false as he does not have authority to issue 'No Objection Certificate'. The petitioner had inspected the premises on 25.12.2012 and recommended issue of the 'No Objection Certificate' for 1 year. On 27.12.2012, the 'No Objection Certificate' was issued by his superior, i.e., the Divisional Officer, Fire and Rescue Services, Kancheepuram to M/s. Infra Industries Limited, owned by the *de facto* complainant.

4. The petitioner would submit that as per the case of the *de facto* complainant, the bribe was alleged to have been demanded on 28.12.2012. The very fact the 'No Objection Certificate' was issued by the petitioner after inspection on 25.12.2012, itself would clearly belie the complaint made against him. The petitioner would contend that a trap case was laid by the vigilance officials against the petitioner and he was arrested on the charge of demanding and accepting Rs.3000/- from *de facto* complainant on 28.12.2012. The charge sheet had been filed by the vigilance authorities in the year 2014 in CC.No.15 of 2014



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before the Chief Judicial Magistrate, Chengalpattu.

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5. The petitioner would submit that the respondent has issued the charge memo dated 13.05.2022, on the very same allegations raised in the year 2012, ten years after the alleged incident and eight years after the date of the petitioner's retirement. The petitioner would submit that this memo was served on 28.05.2022, for which a reply was sent on 06.06.2022, stating that he may be permitted to send his reply after disposal of the criminal proceedings. This was not accepted by the respondent and by communication dated 16.06.2022, the petitioner was asked to submit his explanation, within 15 days and the petitioner had once again by his letter dated 25.06.2022 requested time. The respondent insisted and persisted on the petitioner giving a reply.

6. Thereafter, the petitioner requested the respondent to furnish 26 documents by his reply dated 06.09.2022. Once again, without giving the documents, an explanation was demanded by letter dated 14.09.2022. The petitioner is aggrieved by this charge memo as it has been issued nearly 10 years after the alleged incident and the petitioner



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apprehends that the delay would cause grave prejudice to him.

Therefore, he sought to have the charge memo quashed.

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7. This Court granted interim orders of stay on 06.01.2023, which was being extended.

8. The respondent have filed a counter affidavit denying the claim of the petitioner and it is their contention that the petitioner was caught red handed in a trap case set up by the officers of the Vigilance and Anti Corruption Department, Kancheepuram District, for receiving a bribe of Rs.3000/-. The incident took place on 28.12.2012 and on the very same day the petitioner was arrested. On 02.01.2013, orders were issued by the respondent under Section 17 (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, placing the petitioner under deemed suspension with effect from 28.12.2012.

9. It is also the case of the respondent that the petitioner was paid the requisite subsistence allowance as admissible under Rule 53 (1) of the Fundamental Rules. They would further state that a Government



Order was issued based on the Judgement of the Hon'ble Supreme Court in *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another* in *Civil Appeal No.1912 of 2015*, and the Department of Secretariat and the Heads of Departments were requested to follow directions issued by the Hon'ble Supreme Court with reference to period of suspension granted to the said Ajay Kumar Choudhary. The Government Order has been extracted by the respondent and it is their case that limitation would not apply in the case of suspended Government servant against whom criminal proceedings have been initiated. Therefore, the request of the petitioner to quash the charge memo is not sustainable.

10. The counter affidavit has also touched upon the other allegations. However, the main point that has been urged by the learned counsel for the petitioner was the delay and in support of his submission, he relied upon the Judgement of the learned Single Judge reported in *2000 (4) CTC 517 – C.P.Harish Vs. The Central Warehousing Corporation*. This was the case where the departmental proceedings were initiated after a lapse of 8 years.



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11. He would also rely upon the Judgement of a Division Bench of this Court reported in **2015 (3) LW 27 – V.Bhoopathy Vs. Union of India, Rep. By Senior Superintendent of Post Offices Chennai and another** and the Judgement passed in **WA.No.2346 of 2019 dated 16.04.2021**, in support of his argument that the delayed charge memo has to be rejected.

12. Heard the learned counsels on either side and perused the records.

13. It is an admitted fact that the petitioner was suspended on 28.12.2012 and the charge memo has been issued on 13.05.2022, nearly 10 years after the alleged incident. The respondent would submit that the delay is only on account of the fact that the petitioner has been taking time to submit his explanation. The petitioner's grievance is that the charge memo itself has been issued to him in the year 2022, nearly ten years after the original complaint. Therefore, the contention of the respondent that the petitioner has been taking time for submitting his



explanation to the charge memo is not justified.

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14. In the case of **C.P.Harish** supra, the learned Judge who later gone on to become the Hon'ble Chief Justice of India had in paragraph No.17 observed as follows:

“17.This Court is conscious of the fact that it would not be open to the Tribunal or Court to quash the charges even at the threshold. However, I have already stated that the alleged irregularities or lapses had taken place in the year 1982 and 1991 respectively and action was taken only in the year 1995 and 1998 respectively. I have already held that the inordinate and unexplained delay vitiates the charge memos and the same are liable to be quashed. The disciplinary proceedings cannot be initiated after a lapse of considerable time. Such delay makes the task of proving the charges difficult and is thus not also in the interest of administration. As observed earlier, delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay is too long and is unexplained, the Court may well interfere and quash the charges. Here, in our cases, the petitioner has raised a plea that the delay is likely to cause prejudice to him in defending himself. If such plea is



raised, the Court has to weigh the factors appearing for and against the said plea and take a decision on the totality of circumstances. After the delay of 13 years and 8 years, it would be impossible for the petitioner to remember the identify of the witnesses whom he could summon to appear before the enquiry authority to support his case. Even if he could summon their presence, it would be a doubtful proposition whether they would be in a position to remember that happened more than 13/8 years back and help him in his defence. Further more, the petitioner may not be in a position to effectively cross – examine the witnesses to be examined on the side of the corporation. Practically, it would be a doubtful proposition that either the prosecution witnesses or the defence witnesses would be in a position to remember the facts of the case and advance the case of either the Corporation or the petitioner. Under these circumstances and on the facts and circumstances disclosed, I hold that the inordinate delay will constitute denial of reasonable opportunity to the petitioner to defend himself that it would amount to violation of principles of natural justice and as such, the impugned charge memorandum must be struck down. By weighing all the factors both for and against the petitioner / delinquent officer. I hold that quashing the charge memorandum is just and proper in



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the circumstances”.

WEB COPY 15. Therefore, in the light of the above Judgement and considering the fact that the charge memo has been issued ten years after the incident, this Court is of the opinion that the charge memo cannot be sustained and accordingly, the writ petition is allowed. The charge memo dated 13.05.2022 is quashed. Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes/No

Internet : Yes/No

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To

The Deputy Director
Fire and Rescue Service Department
North Western Region,
Vellore District.



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P.T. ASHA, J

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