



W.P.No.1134 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDER RESERVED ON : 18.02.2025

ORDER PRONOUNCED ON : 17.04.2025

CORAM

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.1134 of 2021

and

WMP.No.1265 of 2021

Smt.P.Kumari

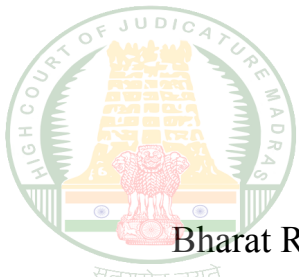
...Petitioner

Vs.

1.The Registrar (i/c),
Pondicherry University,
Bharat Ratna Dr.B.R.Ambedkar Administrative Building,
R.Venkatraman Nagar,
Kalapet,
Puducherry – 605 014.

2.The Deputy Registrar (Admn),
Pondicherry University,
Bharat Ratna Dr.B.R.Ambedkar Administrative Building,
R.Venkatraman Nagar,
Kalapet,
Puducherry – 605 014.

3.The Assistant Director (DDE-EXAMS),
Examination Wing-DDE,



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Bharat Ratna Dr.B.R.Ambedkar Administrative Building,
R.Venkatraman Nagar,
Kalapet,
Puducherry – 605 014.

4.The Inquiry Officer cum Officer In-charge (V&S),
Pondicherry University,
Bharat Ratna Dr.B.R.Ambedkar Administrative Building,
R.Venkatraman Nagar,
Kalapet,
Puducherry – 605 014.

5.Dr.B.Chitra,
The Registrar (i/c),
Pondicherry University,
Bharat Ratna Dr.B.R.Ambedkar Administrative Building,
R.Venkatraman Nagar,
Kalapet,
Puducherry – 605 014.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorar, to call for the records relating to impugned Charge Memorandum vide Ref.No.PU/ESTT/NT3/II-8/2019-2020/204 dated 29.11.2009 issued by the 1st respondent and consequential proceedings vide PU/OSD/V&S/2020-21/991 dated 03.12.2020 issued by the 4th respondent and quash the same.

For Petitioner	: Mr.Prakash Adiapadam for Mr.V.Iyyappan
For R1	: M/s.Hema Srinivasan
For R2 to R5	: Mr.Ravi (Pondy University)



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ORDER

This Writ petition is filed to call for the records relating to impugned Charge Memorandum vide Ref.No.PU/ESTT/NT3/II-8/2019-2020/204 dated 29.11.2009 issued by the 1st respondent and consequential proceedings vide PU/OSD/V&S/2020-21/991, dated 03.12.2020, issued by the 4th respondent and quash the same.

2.The petitioner was initially appointed as Attender (Group-D Staff) at Pondicherry University in the year 1991. The petitioner was later transferred to the Examination Wing (DDE) from Examination Wing (Regular). On 09.04.2019, the second respondent issued an Office Order transferring the petitioner from the Examination Wing (DDE) to the Department of Economics. The petitioner submitted a detailed representation on 10.04.2019, requesting to reconsider the Transfer Order. On 11.04.2019, the petitioner received the Relieving Order dated 10.04.2019, and the petitioner in pursuance of the same reported for duty in the Department of Economics, Pondicherry University and assumed charge. Whiles,



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the third respondent vide letter dated 24.04.2019, directed the petitioner to handover the files, keys, ledger etc to Mr.S.Gothandapany, Junior Assistant, DDE (Exam) on or before 26.04.2019. In response to the said letter, the petitioner immediately, on 25.04.2019, formally handed over the files, keys, ledger etc. to the said S.Gothandapany, Junior Assistant, DDE (Exam). The petitioner communicated the same to the third respondent vide letter dated 26.04.2019. On 25.06.2019, the second respondent issued a show cause notice to the petitioner, calling for her explanation as to why disciplinary action should not be taken against her, for the charges of insubordination and irregularities and the petitioner submitted her reply on 01.07.2018. Thereafter, the impugned charge memo dated 29.11.2019, framing two charges for insubordination and irregularities was issued to the petitioner. The petitioner submitted a detailed explanation to the charge memo on 21.01.2020, thereafter the fourth respondent issued a communication to the petitioner intimating that the enquiry was initiated. Meanwhile, on 03.06.2020, the petitioner applied under the Right to Information Act, 2005, seeking certain documents mentioned in Annexure – III of the charge memo which



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were not furnished to her. The RTI application was disposed of by the Public

Information Officer, Administrative officer, Pondicherry University, on 07.07.2020. Thereafter, the petitioner was called upon to nominate Defence Assistant. The petitioner requested time to engage the Defence Assistant vide letter dated 23.09.2020. The fourth respondent issued a reminder letter requesting the petitioner to appoint Defence Assistant. The petitioner again sent a representation on 10.11.2020, seeking copies of relevant documents and further time to appoint Defence Assistant to defend the charges levelled against her. The fourth respondent thereafter passed the impugned order dated 03.12.2020, informing the petitioner that an ex-parte enquiry would be initiated, as inspite of several reminders the petitioner did not appoint the Defence Assistant. The petitioner thereafter submitted a representation on 08.12.2020, requesting to set aside the ex-parte proceedings and to provide all materials so as to enable her to participate in the enquiry and defend her case properly. At this stage, the petitioner filed the above writ petition for the aforesaid relief.



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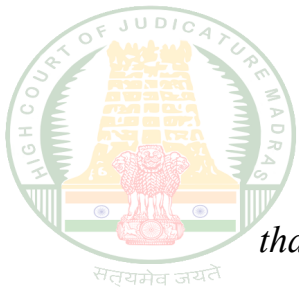
3.The respondents filed a detailed counter contending among other grounds that the writ petition should not be entertained against a mere show-cause notice/ charge memo as at that stage the writ petition would be premature. The respondents relied on several Judgments of the Hon'ble Supreme Court to contend that a mere charge memo could not be a subject matter of challenge as it did not adversely affect the rights of the petitioner. The respondents submitted that the petitioner was guilty of insubordination and therefore, the charge memo was rightly issued. The respondents submitted that several opportunities were given to the petitioner for appointing a Defence Assistant, but the petitioner inspite of multiple reminders did not appoint the Defence Assistant, and therefore it was decided to conduct an ex-parte enquiry. The respondent further submitted that the petitioner in the guise of non-production of certain documents, conveniently delayed the disciplinary proceedings and therefore, the respondents submitted that there were absolutely no merits in the writ petition and the same deserved to be dismissed.



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4. Before entering into the factual controversy, it is necessary to re-captulate the law on challenge to a mere charge memo. The Hon'ble Supreme Court in the case of *Union of India vs. Kunisetty Satyanarayana*, reported in (2006) 12 SCC 28 clearly held that the writ petition should not be entertained against a mere show cause notice / charge memo because at that stage the writ petition would be premature. Mere issuance of the show cause notice/ charge memo did not infringe the right of a person. The Hon'ble Supreme Court relied on the decision in the case of *Executive Engineer, Bihar State Housing Board Vs. Ramdesh Kumar Singh and others* reported in MANU/SC/0180/1996 : AIR 1996 SC 691, *Special Director and Another Vs. Mohd. Ghulam Ghouse and Another* reported in MANU/SC/0025/2004 : 2004 (164) ELT141(SC); *Ulagappa and Others Vs. Divisional Commissioner, Mysore and others* reported in MANU/SC/1005/2000 : JT 2000 (10) SC 206; *State of Uttar Pradesh Vs. Brahm Datt Sharma and Another* reported in MANU/SC/0711/1987 : [1987] 2 SCR 444 etc. and in paragraph 9 held as follows:

“9. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is

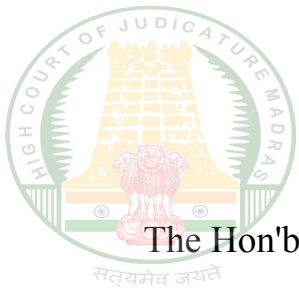


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that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance. Writ jurisdiction is discretionary jurisdiction and hence such discretion under [Article 226](#) should not ordinarily be exercised by quashing a show-cause notice or charge sheet.”

5. So also in the Judgment in the case of *The Secretary, Ministry of Defence and others Vs. Prabhash Chandra Mirdha*, reported in MANU/SC/0492/2012.



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The Hon'ble Supreme Court at paragraph No.13 held as follows:

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"13. Thus, the law on the issue can be summarised to the effect that chargesheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the chargesheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings."

6.From the above Judgments the proposition of law that emerges is that ordinarily the show cause notice /charge memo cannot be challenged in writ proceedings. But the charge memo can be quashed if the same is issued by an incompetent authority, and in exceptional and rare cases. It is not the petitioner's case that the charge memo is issued by an incompetent authority.

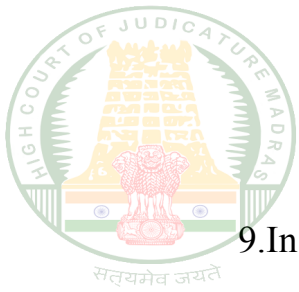


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7. From the narration of facts above, it is clear that the pleadings do not reflect an exceptional case. Though the petitioner claims that she was targeted and the impugned charge memo was issued to her with a malafide intention to harass her and to satisfy some persons, the pleadings are lacking on this aspect. It is trite in law that where the allegations of malafides are made the pleadings should be cogent and unequivocal. Vague statements of malafides cannot form the basis for interference with the charge memo. In the absence of specific pleading on malafides and in the absence of any materials to substantiate the said plea, the charge memo cannot be quashed.

8. It is further noted that there is a factual dispute as to the handing over of the files, keys, ledgers etc. by the petitioner. Whereas, the petitioner claims that she handed over the files, keys, ledgers etc on 25.04.2019 to Gothandapany, but the respondents on the other hand deny the same.



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9. In my view the factual dispute cannot be decided by the Writ Court and it should be best left to the Enquiry Officer to decide the same on the basis of the evidence placed before him. On a conspectus of the facts, it is clear that this is not an exceptional and rare case where show cause notice / charge memo deserves to be quashed. Moreover, there is also a factual dispute relating to the handing over of the files, keys, ledgers, etc, which cannot be decided by the Writ Court.

10. For all the above reasons, I am of the view that there are no merits in the writ petition and the same deserves to be dismissed. Accordingly, this Writ Petition is dismissed. The respondents are directed to complete the enquiry within a period of three weeks from the date of receipt of a copy of this order and further the petitioner is directed to co-operate with the enquiry by not seeking adjournments on frivolous grounds. No costs. Consequently, the connected writ miscellaneous petition is closed.



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Index: Yes/No

Speaking Order: Yes/No

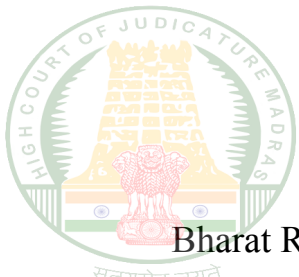
Neutral Citation: Yes/No

ah/dsn

To

1.The Registrar (i/c),
Pondicherry University,

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N.MALA,J.

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Pre-Delivery Order in W.P.No.1134 of 2021



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Order Pronounced on 17.04.2025