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W.A.No.1375 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE Dr. JUSTICE A.D. MARIA CLETE

W.A.No.1375 of 2023
AND
C.M.P.No.13435 of 2023

P.Sundarapandian

.. Appellant

Vs.

The Additional Chief Secretary to Government &
Transport Commissioner in-charge
Chennai-5

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 30.08.2022 passed in W.P.No.17320 of 2015.

For Appellant : Mr.K.Venkataramani
Senior Counsel
For Respondent : Mr.R.Kumaravel
Additional Government Pleader



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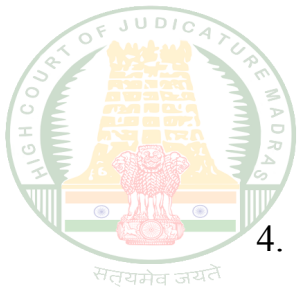
JUDGMENT

(Delivered by R.SURESH KUMAR, J.)

This intra-court appeal has been directed against the order dated 30.08.2022 passed in W.P.No.17320 of 2015.

2. The appellant/writ petitioner was initially appointed as Steno Typist Grade-III in the year 1994 in the respondent department and was promoted to the post of Assistant on 17.03.2008.

3. While that being so, a criminal case was registered against him in crime No.100/2011 on 10.05.2001 on the file of the City Crime Branch, Sub-Urban Police, Chennai-16, based on a complaint given by the Regional Transport Officer, Alandur, Chennai-16, for the alleged offences under Sections 405, 451, 420 and 457 IPC.



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4. The *de facto* complainant had given the complaint stating that the appellant/writ petitioner had committed irregularities in collection of tax of various vehicles and thereby, caused huge loss to the Government. Simultaneously, a disciplinary proceedings was also initiated by placing the petitioner under suspension and on 12.05.20125, a charge memo was issued framing 12 charges against him.

5. Though a written statement of defence was submitted by the appellant/writ petitioner on 29.05.2015 denying the charges, subsequently, he approached the writ Court by challenging the very charge memo.

6. The reason for approaching the writ Court challenging the charge memo according to the appellant/writ petitioner has been recorded in paragraph 4 of the impugned order by the learned Judge that the nature of the criminal case as well as the nature of the disciplinary proceedings are one and the same and there are a number of witnesses, where the trial is yet to be commenced and that being so, simultaneously, if the disciplinary proceedings is commenced and the enquiry is conducted based on the impugned charge memo, then, the very defence to be taken



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by the appellant/writ petitioner before the trial Court had to be taken before the disciplinary proceedings and that will hamper the proceedings of the criminal trial.

7. It was found by the Writ Court that pecuniary loss to the extent of Rs.78,60,921/- was caused to the Government by the appellant/writ petitioner by making bogus entries of 982 vehicles which was identified by conducting an enquiry in this regard and therefore, conduct of disciplinary proceedings is a must, for which a charge memo was issued and the said charge memo cannot be found fault with and it cannot be interfered with. Therefore, citing all these reasons, the writ Court rejected the writ petition through the impugned order.

8. Heard Mr.K.Venkataramani, learned Senior Counsel for the appellant/writ petitioner, who submitted that though the appellant/writ petitioner had already reached the age of superannuation, he was not permitted to retire as he was under suspension and insofar as the criminal case is concerned, the trial is yet to be commenced and the charges framed against the appellant/writ petitioner are identical in the criminal case as well as the departmental proceedings. The charge memo issued against the appellant/writ petitioner in the departmental proceedings



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which was put to challenge before the writ Court would be detrimental even to take a fair defence before the trial Court, the learned Senior Counsel contended.

9. We have heard Mr.R.Kumaravel, learned Additional Government Pleader appearing for the respondent, who contended that disciplinary proceedings are based on preponderance of probability and a criminal trial is based on proof beyond reasonable doubt and hence, there is no bar in conducting departmental proceedings even when criminal proceedings are going on.

10. There can be no quarrel with the aforesaid submission of the learned Additional Government Pleader. But, at the same time, if the same set of charges are framed both in criminal case as well as departmental proceedings, the defence of the delinquent before the trial Court and in the departmental proceedings would be one and the same and hence, in the interest of justice, depending upon the circumstances of the case, normally, the Court would prefer to defer the departmental proceedings till the outcome of the criminal proceedings.

11. Here, since it is one such case where we are confronted with a situation



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wherein departmental proceedings and criminal proceedings are initiated simultaneously, we feel that the departmental proceedings can wait till the disposal of the criminal case. Once the criminal proceedings are completed, the further course of action *i.e.*, either to proceed or otherwise, can be decided by the disciplinary authority. In such view of the matter, we issue the following directions :

- i. The departmental proceedings pursuant to the impugned charge memo shall be deferred till the disposal of the criminal case in C.C.No.362 of 2015 on the file of the Judicial Magistrate Court, Alandur.
- ii. Once the criminal case is decided either way, depending upon the outcome in the criminal case, the further course of action in the departmental proceedings can be decided by the disciplinary authority.

With the above observation and direction, this writ appeal is disposed of.

No costs. Connected C.M.P. is closed.

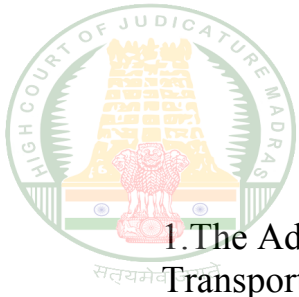
(R.S.K., J.) (A.D.M.C., J.)
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Index: Yes/No

Neutral Citation: Yes/No

To



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1.The Additional Chief Secretary to Government &
Transport Commissioner in-charge
Chennai-5

2.Judicial Magistrate Court
Alandur



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