



W.P.No.3774 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 05.12.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.3774 of 2024  
And  
W.M.P.No.4083 of 2024**

B.Gopalakrishnan

... Petitioner

Vs.

1.The Principal Secretary to Government,  
Social Welfare and Women  
Empowerment Department,  
Fort St.George,  
Chennai – 600 009.

2.The Director of Social Defence Department,  
No.300, Purasaiwalkam High Road,  
Chennai – 600 010.

... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records connected with the proceedings issued in No.1/38926/2023 dated 07.11.2023 passed by the second respondent and quash the same and consequently direct the respondents to treat the period of non employment period as duty of 1516 days from 30.10.2012 to 25.03.2016 for all purposes.



W.P.No.3774 of 2024

For Petitioner : Mr.S.Ilamvaludhi  
For Respondents : Mr.P.Balathandayutham  
Special Government Pleader

## **O R D E R**

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus to call for the records connected with the proceedings in No.1/38926/2023 dated 07.11.2023 passed by the second respondent and quash the same and consequently direct the respondents to treat the period of non employment period as duty of 1516 days from 30.10.2012 to 25.03.2016 for all purposes.

2.The learned counsel appearing for the petitioner submitted that the petitioner joined as Watchman in the second respondent department. While the petitioner was working as Watchman at Government Vigilance Home, Mylapore, a charge memo dated 24.05.2002 was issued to the petitioner by the Superintendent of the said office alleging that the petitioner did not leave the workplace even after office hours; consumed alcohol or used intoxicated substance during the duty period; in the intoxicated mood misbehaved with the inmate. The petitioner gave his reply on 19.06.2002.



W.P.No.3774 of 2024

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3.The learned counsel appearing for the petitioner further submitted that thereafter, the Enquiry Officer conducted detailed enquiry and forwarded her report to the appointing authority holding that the first charge is proved; the second charge is not proved; there is no clarity in respect of the third charge. Thereafter, the appointing authority/ second respondent passed the order of compulsory retirement as punishment on 18.01.2012 and forwarded the same to the Tamil Nadu Public Service Commission for their opinion. The petitioner preferred appeal against the order dated 18.01.2012 before the first respondent and the first respondent vide order dated 03.02.2016 set aside the punishment of compulsory retirement and directed the second respondent to proceed with enquiry. TNPSC also gave its opinion that the order passed against the petitioner is not in order.

4.The learned counsel appearing for the petitioner further submitted that the petitioner was reinstated in service with effect from 25.02.2015. Thereafter the petitioner made representation seeking to to treat the non employment period from 30.10.2012 to 25.03.2016 as duty period for all purposes, however, no order was passed and hence,



W.P.No.3774 of 2024

the petitioner filed W.P.No.28536 of 2022 and pursuant to the order of this Court dated 07.11.2022 made in the said writ petition, the impugned proceedings was issued by the second respondent.

5.The learned counsel appearing for the petitioner further submitted that the alleged occurrence is of the year 2002, however, Enquiry Officer gave his findings on 21.02.2003 and the petitioner gave additional explanation on 29.07.2004, thereafter punishment of compulsory retirement was imposed on the petitioner vide order dated 18.01.2012 and the petitioner preferred appeal against the said order before the first respondent and the first respondent vide order dated 03.02.2016 set aside the punishment of compulsory retirement. Thereafter, the petitioner was reinstated in service, however, in order to wreck vengeance, the present impugned order has been passed. There is no proper explanation for the delay in sending the proposal for TNPSC view and for not taking action till the year 2023 and the delay in concluding the disciplinary proceedings itself is a ground for vitiating the charge memo and enquiry report.

6.The learned Special Government Pleader appearing for the





W.P.No.3774 of 2024

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(iii) Seek an additional explanation from the petitioner and thereafter issue fresh final orders.

8. The learned Special Government Pleader appearing for the respondents further submitted that the petitioner was accordingly reinstated in service with effect from 25.02.2015. Thereafter the petitioner made representation seeking to treat the non employment period from 30.10.2012 to 25.03.2016 as duty period and also filed W.P.No.28536 of 2022 and this Court vide order dated 07.11.2022 directed the second respondent to consider the petitioner's representation, pursuant to which, a proposal was submitted to the Government on 21.03.2023 seeking clarification and the petitioner was requested to provide additional explanation, however, the petitioner refused to provide additional explanation and filed this writ petition.

9. Heard the arguments advanced on either side and perused the materials available on record.

10. The petitioner joined as Watchman in the second respondent department. While the petitioner was working as



W.P.No.3774 of 2024

Watchman at Government Vigilance Home, Mylapore, a charge memo dated 24.05.2002 was issued to the petitioner by the Superintendent of the said office alleging that the petitioner did not leave the workplace even after office hours; consumed alcohol or used intoxicated substance during the duty period; in the intoxicated mood misbehaved with the inmate. The petitioner gave his reply on 19.06.2002. Thereafter, the Enquiry Officer conducted detailed enquiry and forwarded her report to the appointing authority indicating that charge nos.1 and 3 were established, while charge no.2 was found to be not proved.

11. Thereafter, vide order of the second respondent dated 18.01.2012, punishment of compulsory retirement was imposed on the petitioner with effect from 30.01.2012. The petitioner preferred appeal against the order dated 18.01.2012 before the first respondent and the first respondent vide order dated 03.02.2016 set aside the punishment of compulsory retirement and directed the second respondent to reinstate the petitioner with effect from 25.02.2015. Accordingly, the petitioner was reinstated in service with effect from 25.02.2015. Thereafter the petitioner made representation seeking to to treat the non employment period from 30.10.2012 to 25.03.2016 as



W.P.No.3774 of 2024

duty period for all purposes and since there was no action, the petitioner filed W.P.No.28536 of 2022 and pursuant to the order of this Court dated 07.11.2022 made in the said writ petition, the impugned proceedings seeking additional explanation from the petitioner has been issued to the petitioner by the second respondent on 07.11.2023.

12.The Hon'ble Supreme Court, as well this Court, on several occasions, have held that the disciplinary proceedings requires to be initiated and concluded within a reasonable time, if the fault of the pendency was not due to the delinquent's mistake.

13.In State of Madhya Pradesh vs. Bani Singh and another reported in 1990 (Supp) SCC 738, the Supreme Court had come down heavily against the laches on the part of the employer in conducting departmental enquiry and after finding out that there was no satisfactory explanation for the inordinate delay, held that it would be unfair to order departmental enquiry to proceed further.

14.In State of A.P., vs. N.Radhakrishnan reported in 1998 (4) SCC 154, the Supreme Court, at Paragraph 19, held as follows:

*"Normally, disciplinary proceedings*



W.P.No.3774 of 2024

*should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations."*

15. In Union of India vs. CAT reported in 2005 (2) CTC 169 (DB), this Court has held that,

*"The delay remains totally unexplained. Therefore, we have no hesitation at all in concluding that the ground of inordinate delay in proceeding with the departmental enquiry as referred to above by us, would come in the way of the Govt., to continue with the enquiry any further....."*

16. In P.V. Mahadevan vs. M.D. Tamil Nadu Housing Board reported in 2005 (4) CTC 403, this Court after referring to various decisions, held that,

*"The protracted disciplinary enquiry against a government employee should,*



*therefore be avoided not only in the interest of the government employee but in public interests and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.*

*15. We therefore, have no hesitation to quash the charge issued against the appellant. The appeal is allowed. The appellant will be entitled to all the retiral benefits in accordance with law. The retiral benefits shall be disbursed within three months from this date. No cost."*

17.In The Special Commissioner and Commissioner of Commercial Taxes, Chepauk v. N.Sivasamy reported in 2005 (5) CTC



W.P.No.3774 of 2024

451, the Division Bench of this Court held as follows:

*"Though the alleged lapse occurred in the year 1995 and certain charges related to the period 1993-94, the charge memo was issued on 15.07.1997 and served on 23.07.1997, just 7 days before the date of retirement. The contention of the appellant that only with a view to cause hardship, agony and anguish, the charge memo was issued cannot be ignored..... We have already pointed out that though the applicant failed Original Application No.6284/97, challenging the charge memo, dated 15.07.1997, admittedly, no stay was granted. Despite the above fact that the department had not proceeded with the disciplinary proceedings, there is an inordinate and unexplained delay on the part of the department. According to the applicant, he is 67 years of age as on the date and had rendered 38 years of service in the department. He had undergone sufferings from mental worry, agony, anguish and hardship for all these years. We are satisfied that there is no need to pursue the charge memo, dated 15.07.1997."*



W.P.No.3774 of 2024

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18.In yet another decision in R.Tirupathy and others vs. the District Collector, Madurai District and others reported in 2006 (2) CTC 574, this Court was pleased to quash the charge memo, dated 02.02.2005 on the ground that the charges relate to purchase of uniforms during the year 1994 95 and 1995-96 and the inordinate delay on the part of the department in issuing a charge memo was not properly explained.

19.The Supreme Court in M.V.Bijlani v. Union of India and other reported in 2006 (5) SCC 88, quashed the order of removal from service, confirmed by the appellate authority on various grounds particularly, on the ground that initiation of disciplinary proceedings after six years and continuance thereof, for a period of seven years prejudiced the delinquent officer.

20.In M.Elangovan vs. The Trichy District Central Co-operative Bank Ltd., reported in 2006 (2) CTC 635, this Court, while quashing the second show cause notice on the ground of inordinate and unexplained delay in initiating and completing the disciplinary proceedings, allowed the writ petitions holding that the petitioners



W.P.No.3774 of 2024

therein were entitled to all the benefits in accordance with law. The same view has been expressed by this Court in yet another decision in Parameswaran vs. State of Tamil Nadu reported in 2006 (1) CTC 476.

21.In the present case, the alleged occurrence is of the year 2002; the Enquiry Officer gave her findings on 21.02.2003; the petitioner gave additional explanation on 29.07.2004, thereafter punishment of compulsory retirement was imposed on the petitioner vide order dated 18.01.2012 and the petitioner preferred appeal against the said order before the first respondent and the first respondent vide order dated 03.02.2016 set aside the punishment of compulsory retirement and directed the second respondent to reinstate the petitioner with effect from 25.02.2015. Thereafter, the petitioner was reinstated in service with effect from 25.02.2015, however, the impugned proceedings seeking additional explanation from the petitioner has been issued on 07.11.2023. There is an inordinate delay of nearly eight years from 2016 to 2023 in re-initiating the disciplinary proceedings and there is no proper explanation for the said inordinate delay. On the sole ground the impugned proceedings is set aside.



W.P.No.3774 of 2024

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22.The writ petition is allowed. The proceedings issued by the second respondent in No.1/38926/2023 dated 07.11.2023 is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

**05.12.2025**

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Index: Yes/ No  
Speaking Order: Yes/ No  
NCC: Yes/ No

To

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Fort St.George,  
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- 2.The Director of Social Defence Department,  
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W.P.No.3774 of 2024

**M.DHANDAPANI,J.**  
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**W.P.No.3774 of 2024**  
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