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W.P.No.7598 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.7598 of 2025
and W.M.P.Nos.8522 and 8524 of 2025

S.Kasiviswanathan

... Petitioner

-Vs-

1. The Chief Engineer,
TANTRANSCO, Project -1,
Chennai-600 032.
2. The Chief Engineer (Personal),
Tamil Nadu Electricity Board,
Electricity Avenue, No.144,
Anna Salai,
Chennai-600 002.
3. The Chairman,
Tamil Nadu Electricity Board,
Electricity Avenue,
No.144, Anna Salai,
Chennai – 600 002.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in respect of proceeding in Ku.A.No 0051 / T.P.M1-Thi / Chennai / No / N.P. 11/ ni-V1/Ro.0.Na/2024 dated 05.2024 (Ku.Aa.No.0051 / Tha. Po. / Mithi - Na / Chennai / Nir / Ni. Pi 11 / Ni. 21 / Ko.O.Na/2024 dated 05.2024) on the file



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of the Chief Engineer, TANTRANSO Project -1 Chennai - 600 032 pending on the file of the 1st respondent and quash the same and consequently direct the respondents to place the petitioner in the appropriate seniority.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
assisted by Mr.S.Siva Kumar for
Mr.V.P.Rajendran

For Respondents : Mr.R.Nikkhilesh Athav
for Mr.K.Rajkumar, Standing Counsel

ORDER

This Writ Petition has been filed challenging the charge memo dated 04.05.2024 passed by the first respondent.

2. The petitioner was appointed as Assistant Engineer (Civil) on 14.06.1995 in the Tamil Nadu Electricity Board. While being so, based on a complaint, an FIR was registered in Crime No.6/AC/2007 by Vigilance and Anti-Corruption Department and a trap was conducted. The petitioner was caught red-handed and was arrested and remanded to judicial custody. Consequently, the petitioner was deemed to have been suspended from service. The criminal case culminated in a trial in C.C.No.131 of 2011. After full-fledged trial, the Criminal Court acquitted the petitioner by Judgment dated 29.12.2021. Pursuant to the order of acquittal, the petitioner was re-instated into service by the revocation of the order of the suspension order dated



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02.03.2022. Thereafter, the impugned charge memo was issued for the very same set of charges. Hence, this writ petition.

3. The learned Senior Counsel appearing for the petitioner submitted that there is an inordinate delay of 15 years in issuing the charge memo. When there is no bar for conducting simultaneous proceedings during the pendency of the criminal case, there was absolutely no impediment for the respondents to issue the charge memo within a reasonable time. In fact, even after the order of acquittal, there was a delay of two years in serving the charge memo. Therefore, the unexplained and inordinate delay in initiating disciplinary proceeding is liable to be quashed. The charges framed by the first respondent are the very same as those in the criminal case. When the Criminal Court acquitted the petitioner that too after examining the very same witnesses of those who are going to depose before the disciplinary authority in the disciplinary proceedings, the first respondent ought not to have issued the charge memo for the very same set of charges.

4. The respondents filed counter and on the submissions made by the learned counsel for the respondents reveals that there is absolutely no



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impediment to serve the charge memo even after the order of acquittal. The criminal case ended on 29.12.2021 and a consultative process was made before the higher authorities about further course of action and as such, there was a delay. Thereafter, the respondents have collected the records from the Criminal Court and proceeded with the disciplinary proceedings and issued a charge memo. As per G.O.Ms.No.66, Human Resources Management (N) Department dated 05.07.2022, if the disciplinary authority considered the fact that in the event of exoneration in the departmental proceedings prior to the pending criminal case, it would affect the result of the prosecution. Therefore, the respondents were awaiting the decision of the Criminal Court to initiate the disciplinary proceedings. Therefore, there is no delay on the part of the respondents and it is no way prejudice to the defence of the petitioner herein in the disciplinary proceedings.

5. He also relied upon the Judgment of the Hon'ble Supreme Court of India in reported in **2007 14 SCC 49** in the case of ***Government of Andhra Pradesh and others Vs V.Appala Swamy***, in which the Hon'ble Supreme Court of India held that the question of delay in concluding the departmental proceedings as against a delinquent officer is concerned, no hard and fast rule



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can be laid down. Each case must be determined on its own facts. The principles upon which a proceeding can be directed to be quashed on the ground of delay are (i) where by reason of the delay, the employer condoned the lapses on the part of the employee; (ii) where the delay caused prejudice to the employee. In the case on hand, there is absolutely no prejudice to the petitioner to proceed with the disciplinary proceedings.

6. He also relied upon the Judgment of the Hon'ble Supreme Court of India reported in **2006 12 SCC 28**, in the case of ***Union of India and another Vs Kunisetty Satyanarayana***, in which the Hon'ble Supreme Court of India held that a mere show cause notice or charge sheet 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 or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show cause notice or charge sheet does not infringe the right of anyone. Therefore, the writ petition is pre-mature and not maintainable.



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7. Heard the learned counsel on either side and perused the materials available on record.

8. The points for consideration in this writ petition are as follows:-

- (i) Whether the charge memo can be quashed on the ground of latches?
- (ii) Whether the charge memo is sustainable after the acquittal of delinquent for the very same set of charges?

9. Admittedly, on a complaint, FIR has been registered as against the petitioner in Crime No.6/AC/2007 on the file of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai. Pursuant to the registration of FIR, a trap was conducted and thereafter, the petitioner was arrested and remanded to judicial custody. After completion of investigation, final report was filed and the same has been taken cognizance by the Trial Court in C.C.No.131 of 2011. The petitioner was charged for the offence punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.

10. After full-fledged trial, the Trial Court acquitted the petitioner by the



Judgment dated 29.12.2021, on the following grounds:-

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“ 1. Prosecution has not explained about the conversation of PW2 with the Office of Vigilance Office on 06.07.2007 and 07.07.2007 (Even before the alleged date of pre trap demand). Which exhibits the fact that the prosecution does not disclose the origin of the case itself.

2. The PW2 contends in the Complaint that on 10.07.2007 at 9.00 AM the Accused Officer has made a pre trap demand in Sholinganallur Site. However, the evidence of the prosecution witness exhibits the fact that the said person has not went to the site on the said time and PW2 himself admitted he has not went to Sholinganallur site on the said date which categorically proves the fact no pre trap demand was made by the Accused.

3. The prosecution contends that PW2 on 10.07.2007 has given complaint at 11.00 hours and Ex.P.15 FIR was registered on the said date and time itself. However, on perusal of the evidence of PW3 and PW14 the official witness the said person has called as Official witness even before 11.00 AM itself and they were instructed to go to the vigilance office by their higher official between 10.00 AM to 11.00 AM which creates doubt whether PW2 has given complaint on 11.00 AM only.

4. No Documents was filed by the prosecution to prove the fact that the PW3 and PW14 were officially called as witness for trap proceedings.

5. The evidence of PW2 and PW3 exhibits the fact the Accused Officer was not present at the time of alleged trap proceedings has stated by the prosecution.

6. The evidence of PW2 and PW3 and Ex.P.16 Rough Sketch categorically exhibits the fact that PW3 could not hear the conversation taken place between PW2 and Accused Officer and the claim of PW3 that the Accused Officer demanded the amount cannot be accepted by this court.



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7. The case of the prosecution is that the Accused Officer has demanded the amount for passing of the bill amount of Rs. 15,00,000/-. However, the evidence of the prosecution and the defense documents exhibits the fact no such bill is pending before the Accused Officer nor the bill amount to the Value of Rs. 15,00,000/- is due to be paid to the PW2 on the date of the alleged demand.

8. The contention of PW2 on the date of alleged complaint the extension order was available. However, the documents exhibits the fact no such order was available which shows that the PW2 has not put forth the true facts before this court. The prosecution while filing Ex.P.12 the call detail records of the PW.2, the prosecution has not disclosed the call record details of 08.07.2007 and 09.07.2007 (for the best known reason to them). Which exhibits the fact the prosecution has not submitted the true particulars before this court.

9. The evidence of the Prosecution and Defense exhibits the fact that for the purchase of the tiles only the Accused Officer came to Adyar Anandha Bhavan Hotel met PW2 and received the amount.

10. The evidence of the prosecution also creates a doubt with regard to the place where the Phenolphthalein test were conducted.

11. The DVAC Police has violated the Vigilance Manual Rules.

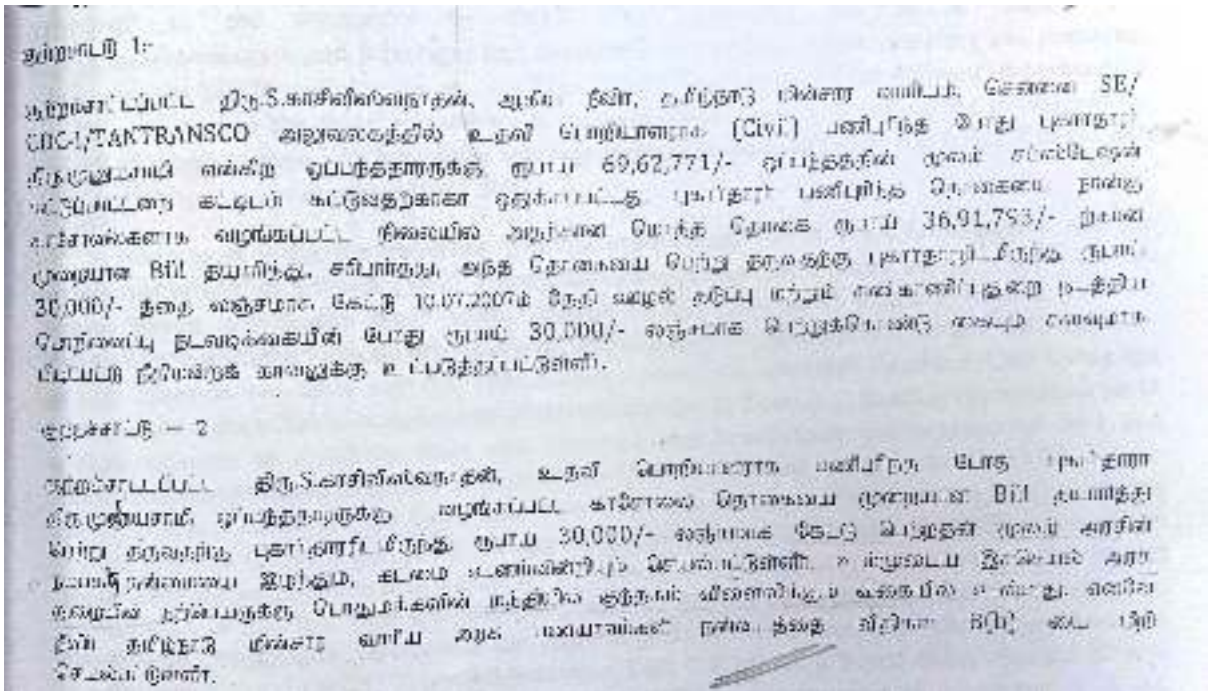
12. As the prosecution has failed to prove the ingredients of sec 7 and 13(2) r/w.13(1)(d) of PC act against the Accused officer that the said person has demanded, he received and recovery of the bribe amount. Then this court come to a conclusion that the Accused officer has not committed the offense.”



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11. Thus, the specific findings of the Trial Court is that the petitioner has not committed the offence to attract any of the charges under the Prevention of Corruption Act. Even after the acquittal, the petitioner was served with the present impugned charge memo consisting of two charges as follows:-



12. Therefore, the charges framed by the first respondent and the charges framed by the Criminal Court are one and the same. When the Criminal Court, after full-fledged trial, concluded that the petitioner has not committed any offence under the Prevention of Corruption Act, the first respondent once again issued the charge memo for the very same set of allegations by nullifying the order passed by the Trial Court.



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13. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India reported in **2006 5 SCC 446** in the case of ***G.M.Tank Vs State of Gujarat and others***, wherein the Hon'ble Supreme Court of India held that the departmental proceedings and the criminal case were based on similar set of facts and the charge in the department case and the charge before the Criminal Court were one and the same. The Investigating Officer and other departmental officials were the witnesses, examined by the Enquiry Officer. The same witnesses were examined in the criminal case, resulting in acquitting the accused. Therefore, it would not be prudent to continue the disciplinary proceedings after the acquittal by the Criminal Court on the basis of the very same charges and evidence. The charge sheet issued to the appellant in the criminal case was converted as a charge memo to initiate disciplinary proceedings. The witnesses are one and the same. There is no question of re-appreciating the evidence by the Enquiry Officer to punish the delinquent. The alleged occurrence took place long back and nothing prevented the disciplinary authority from initiating disciplinary proceedings as against the delinquent even before the disposal of criminal case. Therefore, the present charge memo has been issued to the petitioner in order to absurd the findings of the Criminal Court that too after full-fledged trial. Hence, the charge memo cannot be



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sustained and is liable to be quashed.

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14. Insofar as the delay is concerned, the alleged occurrence took place in the year 2007. After completion of investigation, the final report was filed and the same had been taken cognizance by the Trial Court in the year 2011. After trial, the Criminal Court acquitted the petitioner on 29.12.2021. Thereafter, the petitioner was also reinstated into service. After a period of two years from the date of his reinstatement, the charge memo came to be issued by the first respondent. Therefore, there is a delay of 17 years from the date of the alleged occurrence for issuing the charge memo.

15. Though the respondents have vehemently contended that only because of the pendency of the trial before the Criminal Court, the respondents did not serve any charge memo to proceed with the disciplinary proceedings, since it caused prejudice to the delinquent, there is absolutely no impediment for the respondents to proceed with the disciplinary proceedings by issuing the charge memo.

16. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India reported in **2005 6 SCC 636** in the case of



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P.V.Mahadevan Vs MD, TN Housing Board, wherein the Hon'ble Supreme

Court of India held that there is no acceptable explanation on the side of the respondent explaining the inordinate delay in initiating departmental disciplinary proceedings. Therefore, allowing the disciplinary authority to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the delinquent. Keeping a higher Government official under charges of corruption and disputed integrity would cause unbearable mental agony and distress to the officer concerned. The protracted disciplinary enquiry against a Government employee should therefore, be avoided not only in the interests of the Government employee but in public interest and also in the interests of inspiring confidence in the minds of the Government employees. Therefore, it is necessary to draw the curtain and to put an end to the enquiry. The delinquent had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the delinquent due to protracted disciplinary proceedings would be much more than the punishment. Therefore, for the mistakes committed by the disciplinary authority in the procedure for initiating disciplinary proceedings the delinquent should not be made to suffer.

17. The above Judgment is squarely applicable to the case on hand.



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Already, the petitioner suffered with the order of suspension from the date of the alleged occurrence viz 10.07.2007. He was reinstated into service only on 02.03.2022, after acquittal from the Criminal Court by the Judgment dated 29.12.2021. Therefore, already the petitioner had suffered mental agony from 10.07.2007 to 02.03.2022. Therefore, the mental agony suffering of the petitioner due to the protracted criminal trial would be more than the punishment. That apart, the persons who were cited and deposed as witnesses in the Criminal Court are going to depose before the disciplinary authority. Therefore, no purpose would be served if the disciplinary proceeding continues as against the petitioner when the Criminal Court concluded that the petitioner had not committed any offence under the Prevention of Corruption Act.

18. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the proceedings in Ku.A.No 0051 / T.P.M1-Thi / Chennai / No / N.P. 11/ ni-V1/Ro.0.Na/2024 dated 05.2024 (Ku.Aa.No.0051 / Tha. Po. / Mithi - Na / Chennai / Nir / Ni. Pi 11 / Ni. 21 / Ko.O.Na/2024 dated 05.2024), is hereby quashed.

19. In the result, this writ petition stands allowed. Consequently, connected Miscellaneous petitions are closed. No costs.



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Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J,

mn

To

1. The Chief Engineer,
TANTRANSCO, Project -1,
Chennai-600 032.
2. The Chief Engineer (Personal),
Tamil Nadu Electricity Board,
Electricity Avenue, No.144,
Anna Salai,
Chennai-600 002.
3. The Chairman,
Tamil Nadu Electricity Board,
Electricity Avenue,
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