



W.P.No.9779 of 2022

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IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 05.02.2025

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.9779 of 2022

and

WMP.Nos.19833 and 9498 of 2022

V.Sundar

...Petitioner

Vs.

1. The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture [AA8] Department,
Secretariat,
Chennai.9.

2. The Commissioner,
Tribunal for Disciplinary Proceedings,
No.5/1842-A Trichy Road,
Ramanathapuram,
Coimbatore 641 045.

...Respondents

Writ petition is filed under Article 226 of the Constitution of India

praying to issue Writ of Certiorari, calling for the records relating to the charges

memo issued by the second respondent in his T.D.P. Case No.3/2015,



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Roc.No.160/2015/A2 dated 21.8.2015 and to quash the same.

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For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.V.Manoharan,
Additional Government Pleader

ORDER

Writ petition is filed challenging the charge memo dated 21.08.2015.

2.The petitioner joined Revenue Department as Assistant on 06.01.2010 at Taluk Office, Namakkal. The petitioner was subsequently promoted as Deputy Tahsildar in the year 2015. While the petitioner was serving as Revenue Inspector at Mallasamudharam Firka, Tiruchengode Taluk, Namakkal District, in the year 2012, the State was affected by severe drought on account of failure of monsoon. In view of the drought, the Government issued G.O.Ms.No.4, Revenue Department dated 05.01.2013, forming High Level Committee for assessment of drought condition and for suggesting remedial measures. The Committee visited several districts and indicated 31 districts except Chennai, as



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drought affected. The Government found certain irregularities in the implementation of the scheme and therefore the impugned charge memo was issued by the 2nd respondent in T.D.P.Case No.3 of 2015 dated 21.08.2015, against the petitioner, levelling two counts of charges. Based on the charges, the 2nd respondent conducted the enquiry and concluded the same on 28.03.2019. The 2nd respondent in his enquiry report concluded that charge one against the petitioner was partly proved and charge two was not proved. Based on the enquiry officer's report, the disciplinary authority called for further explanation from the petitioner vide communication letter dated 14.09.2020. As the charge memo was filed without jurisdiction and as proceedings were dragged on for more than 7 years for no fault of the petitioner, the petitioner was constrained to file the above writ petition challenging the charge memo.

3.The respondents filed detailed counter reiterating the facts of the case apart from stating that, as the petitioner caused loss to the Government by misappropriating the drought funds, proceedings were initiated. The



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respondents further stated that as per rule 4(2) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, the Government had powers to refer to the Tribunal any other case or class of cases which it considered fit to be dealt with by the Tribunal. The respondents further relied on Rule 8 (a) (i) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rule, 1955, to submit that the Tribunal had jurisdiction to conduct the cases, involving corruption charges and corruption combined with other charges. The respondents therefore submitted that the writ petition was without merit and the same deserved to be dismissed.

4.The learned counsel for the petitioner relying on the judgment of the Hon'ble Supreme Court, in the case of *Secretary to Government of T.N versus D.Subramanyan Rajadevan*, reported in (1996) 5 SCC 334, and the judgment of learned judge of this court in W.P.No.15404 of 2018, submitted that the impugned charge sheet was passed without any jurisdiction and hence deserved to be quashed. The learned counsel submitted that apart from lack of



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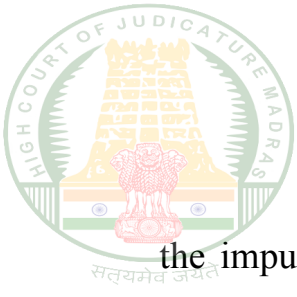
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jurisdiction, there was inordinate and unexplained delay of 10 years, since the alleged incident and therefore in the absence of reasonable explanation for the inordinate delay, the impugned charge sheet was liable to be quashed.

5.The learned counsel for the respondents reiterated the submissions made in the counter affidavit.

6.I have heard both the learned counsels and perused the materials placed on record.

7.The fore most objection of the learned counsel for the petitioner to the impugned charge memo, is that it was passed without jurisdiction, in as much as, the proceedings under Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, could be initiated only in case of corruption and in cases of corruption combined with other charges. To appreciate the said contention of the learned counsel, the charges framed against the petitioner are referred to. In



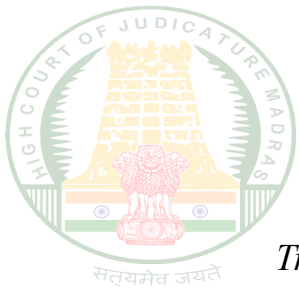
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the impugned charge memo, two charges were framed, and the same read as follows:

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CHARGE-I

While you (Accused Officer-1) Tmt.D.Easwari, were working as Village Administrative Officer, Kolankondai Village, Tiruchengode Taluk, Namakkal District you (AO-2) Thiru.M.Palanisamy, were working as Assistant Agricultural Officer, Koothanatham, Office of the Agricultural Extension Centre, Mallasamudram, Tiruchengode Taluk, Namakkal District and (AO-3) Thiru.V.Sundar, were working as Revenue Inspector, Mallasamudram, Tiruchengode Taluk, Namakkal District while preparing the list of beneficiaries to get the drought relief fund for the year 2012 failed to verify the actual extent of land and the crop in it for each beneficiary and furnished false and incorrect details i.e., excessive extnt of land than actually available in respect of 13 beneficiaries viz., (i) Tr.R.Thangavel S/o Tr.Ramasamy (ii) Tr.N.Ramasamy S/o Tr.Nachimooppan, (iii) Tmt.K.Athayee W/o Tr.Kandasamy (iv) Tr.R.Loganathan S/o Ramasamy, (v) Tr.N.Thangavel S/o Tr.Nalliyappan, (vi) Tr.M.Kulandaivel S/o Muthusamy, (vii)



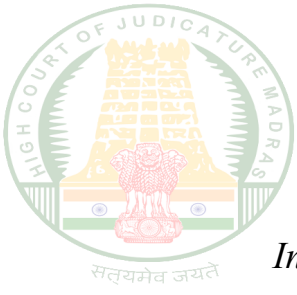
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Tr.Muthusamy S/o Tr.Nalliyappan, (viii) Tr.S.Chandran S/o Tr.Sellappa Gounder, (ix) Tr.S.Velu S/o Tr.Sellappa Gounder, (x) Tr.R.Senthilkuar S/o Tr.Ramasamy, (xi) Tr.M.Kolandaivel S/o Tr.Muthu Gounder, (xii) Tr.R.Venkatachalam S/o Tr.Rangasamy and (xiii) Tr.K.Rangasamy S/o Kandappa Gounder with in the Mallasamudram PACB limits and also furnished second claim also for the same land in the same survey number already furnished for the same year but with varied extent of land that too false and incorrect, and enabled the above beneficiaries to get a sum of Rs.2,51,650/- excessively than actually eligible for them and thereby you AOs 1 to 3 caused loss to the Government to the tune of Rs.2,51,650/- and failed to maintain absolute integrity and devotion to duty.

CHARGE-II

While you (Accused Officer-1) Tmt.D.Easwari, were working as Village Administrative Officer, Kolankondai Village, Tiruchengode Taluk, Namakkal District you (AO-2) Thiru.M.Palanisamy, were working as Assistant Agricultural Officer, Koothanatham, Office of the Agricultural Extension Centre, Mallasamudram, Tiruchengode Taluk, Namakkal District and (AO-3) Thiru.V.Sundar, were working as Revenue

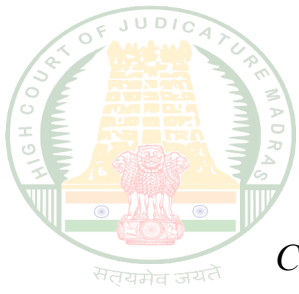


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Inspector, Mallasamudram, Tiruchengode Taluk, Nammakkal District while preparing the list of beneficiaries to get drought relief fund for the year 2012 failed to verify the actual extent of land and the crops in it in respect of the beneficiary Thiru.Chandran S/o Sellappagounder, Chettikadu and furnished false and incorrect details regarding the extent of land as 11.33 acres in survey No:25/2 whereas the actual extent was only 2.91 acres and enabled the beneficiary to get excess drought relief of Rs.25,260/- than the eligible, which was a loss to the Government and the AOs 1 to 3 also furnished false details of 4.45 acres in fictitious name of Sinekaran S/o Sellappa Gounder and recommended for Rs.13,350/- drought relief and enabled Thiru.Chandran to get the amount illegally though the name, survey No and extent of land totally with that of Tr.Chandran and thus caused loss to the Government to a sum of Rs.13,350/- thereby you AOs 1 to 3 were explicitly lack of devotion to duty and caused loss to the Government funds.

Thereby you (Aos 1 to 3) have failed to maintain absolute integrity and devotion to duty in Government Service and behaved in a manner unbecoming of Government Servants and violated Rule 20(1) of Tamil Nadu Government Servants



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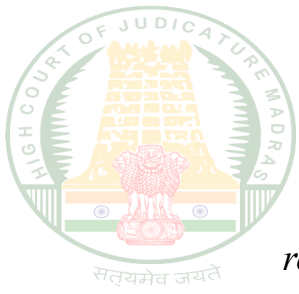
Conduct Rules 1973.”

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8.From a reading of the above charges, it is clear that there are no allegations of the corruption against the petitioner. The contention of the learned counsel for the petitioner is that under Rule 4 of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, the tribunal had no jurisdiction to enquire into the charges other than corruption and corruption combined with other charges. On the other hand, the learned counsel for the respondents contends that under Rule 4(2) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rule, 1955, the Government could refer any other cases or classes of cases which the Government considered fit to be dealt with by the Tribunal. At this juncture, I deem it appropriate to refer to Rule 4 of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955.

“ 4. (1) The Government shall, subject to the provisions of rule 5, refer the following cases to the Tribunal, namely:-

(a) Cases relating to Officers of the State Services in



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respect of matters involving corruption on the part of such Officers; and

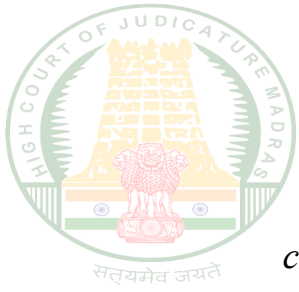
(b) All appeals or petitions to the Government against orders passed on charges of corruption and all disciplinary cases in which the Government propose to revise original orders passed on such charges;

Provided that it shall not be necessary to consult the Tribunal -

(i) in any case in which the Tribunal has, at any previous stage, given advice in regard to the order to be passed and no fresh question has thereafter arisen for determination ; or

(ii) where the Government propose to pass orders rejecting such appeal or petition.

(2) The Government may, subject to the provisions of rule 5, also refer to the Tribunal any other case or class of cases which they consider should be dealt with by the Tribunal and the Government, in exercising the power conferred by this sub-rule, shall have regard to the nature and gravity of the charge, the grade or rank of the officer charged and the organisational strength of the department concerned in handling cases involving interpretation of rules regulating



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conditions of service of Government servants.”

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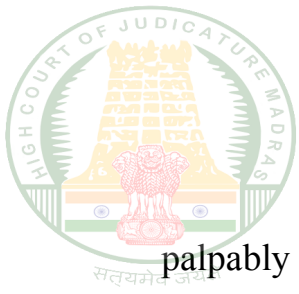
9.From the reading of the aforesaid rule, it is clear that the Government is empowered to refer to the Tribunal any other cases or classes of cases apart from cases relating to corruption and other charges combined with corruption. That the Government has power to refer any other cases or class of cases is exemplified by Rule 8(d) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules,1955. Rule 8(d) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules,1955, reads as follows:

“8 (d) The provisions of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shall apply -

(i) in regard to the procedure to be followed in cases other than those of corruption; and

(ii) in regard to any other matter for which no specific provision has been made in these rules.”

10.From a combined reading of Rule 4(2) with Rule 8(d) of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules,1955 , it is



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palpably clear that the Government has power to refer other cases and classes of

cases to the Tribunal, but while dealing with such cases the procedure laid down

under under Rule 8(d), of Tamil Nadu Civil Services (Disciplinary and Appeal)

Rules, 1955 has to be followed. It is further pertinent to note that, if the

contention of the learned counsel for the petitioner that the tribunal had no

jurisdiction to deal with matters other than corruption is countenanced, than the

legislature would not have included Rule 8(d) in the Tamil Nadu Civil Services

(Disciplinary Proceedings Tribunal) Rules, 1955. The very fact that the Rule

8(d) was incorporated shows that under Rule 4(2) the Government was

empowered to refer cases other than corruption. The incorporation of Rule 8(d)

clearly establishes the legislative intent. If the Government had no power to

refer cases other than the corruption cases, then Rule 8(d) would be redundant.

It is well settled principle of statutory interpretation that the legislature does not

legislate without purpose. The principle is rooted in the Maxim: *ut res magis*

valeat quam pereat (It is better for a thing to have an effect than to be made

void). Every provision and every word in a statute must be given effect and



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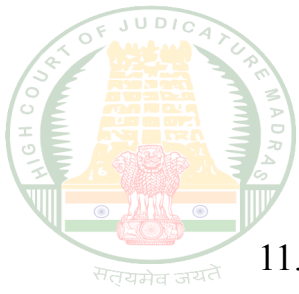
meaning, and no part of the statute should be treated as superfluous or nugatory.

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The Hon'ble Supreme Court in the case of *J.K.Cotton Spinning and Weaving Mills Co. Ltd. Vs. State of Uttar Pradesh & others*, reported in *AIR 1961 SC 1170*, held that “*In the interpretation of statutes the court, always presumes that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect.*”

In *Naziruddin and others Vs. Sita Ram Agarwal*, reported in (2003) 2 SCC 577, the Hon'ble Supreme Court held that “*It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words.*”

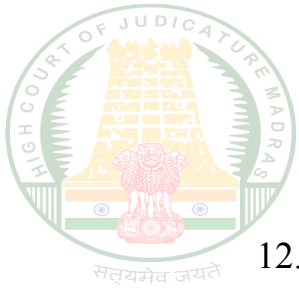
In the light of the aforesaid statutory provisions, I am of the view that the contention of the petitioner's counsel that the charge memo was issued without jurisdiction cannot be endorsed.



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11.The learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court reported in 1996 (5) SCC 334, in support of his contention that the Tribunal had no jurisdiction to enquire into the cases other than those relating to corruption or corruption combined with other charges. I am afraid, the said citation cannot apply to the factual matrix of this case. The fact situation in the case before the Hon'ble Supreme Court was completely different from the facts of the present case. In the said case, the matter arose out of an allegation of corruption and therefore the Hon'ble Supreme Court held that Rule 8(a) of the Disciplinary Proceedings Rules, in clear terms, excluded the operation of Rule 17 while conducting enquiries in cases of corruption and also in cases of corruption combined with other charges. It was only in the context of the facts of the case which arose out of corruption charges that the court held that the operation of Rule 17 of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules, 1955, was inapplicable. Therefore reliance placed by the petitioner's counsel on the said judgement in my view, is misplaced.



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12.The learned counsel for the petitioner secondly submitted that the impugned charge sheet was liable to be quashed on the ground of 10 years delay in concluding the proceedings from the date of the alleged incident. In my view, the petitioner is on a better wicket here.

13.Before embarking on the submission of the learned counsel for the petitioner on the inordinate delay in concluding the enquiry proceedings, relevant dates which are relevant for the said purpose are referred to.

i) As per the charge memo, the incident occurred in 2012. Thereafter after a lapse of almost 3 ½ years, the impugned charge memo was issued on 21.08.2015. Even as per the counter of the respondents, the enquiry commenced on 22.09.2015 and concluded on 28.03.2019. The disciplinary authority called for explanation from the petitioner on the enquiry officers report on 14.09.2020. From the dates narrated above, it is seen that the respondents had taken almost 8 years to complete the enquiry. It is not the respondents case that the delay in concluding the enquiry was attributtal to the petitioner. When a specific plea



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was raised by the petitioner on the ground of delay, the respondents ought to

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have given justifiable reasons for the delay of more than 8 years in concluding the enquiry proceedings.

14.In the counter the explanation for delay was that “the delay in issuance of charge sheet or completion of disciplinary proceedings could not be regarded as violation”. I am afraid, the said statement is made for the sake of making it, without assigning any plausible justification for the delay.

15.It is trite that the delinquent employee is entitled for speedy conclusion of disciplinary proceedings. When the proceedings are prolonged for no fault of the delinquent employee and in the absence of any explanation for the inordinate delay, the delinquent employee shall not suffer. In the present case, it is seen that there is hardly any explanation worth consideration for the delay. The Hon'ble Supreme Court at para '12' of the judgment in P.V.Mahadevan Vs. M.D., Tamil Nadu Housing Board, reported in AIR 2006 SC 207, 2005 (4) CTC



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403 etc., held as follows:

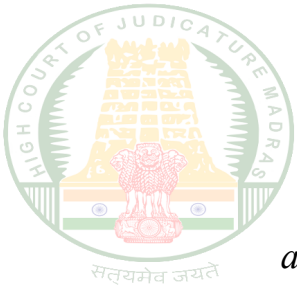
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“12. The very same ground has been specifically raised in this appeal before this Court wherein it is stated that the delay of more than 10 years in initiating the disciplinary proceedings by issuance of charge memo would render the departmental proceedings vitiated and that in the absence of any explanation for the inordinate delay in initiating such proceedings of issuance of charge memo would justify the prayer for quashing the proceedings as made in the writ petition.”

So also, in the judgment reported in the case of *Prem Nath Bali vs. Registrar, High Court of Delhi and ors.* reported in *AIR 2016 SC 101*, in para 28, 29 and 30 held as follows:

“28. This takes us to the last submission of learned Counsel for the Appellant, which in our considered view, deserves serious consideration.

29. One cannot dispute in this case that the suspension period was unduly long. We also find that the delay in completion of the departmental proceedings was not wholly



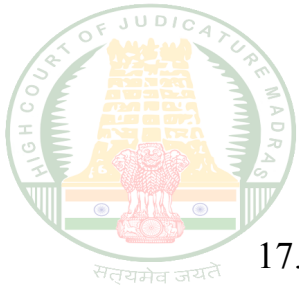
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attributable to the Appellant but it was equally attributable to the Respondents as well. Due to such unreasonable delay, the Appellant naturally suffered a lot because he and his family had to survive only on suspension allowance for a long period of 9 years.

30. We are constrained to observe as to why the departmental proceeding, which involved only one charge and that too uncomplicated, have taken more than 9 years to conclude the departmental inquiry. No justification was forthcoming from the Respondents' side to explain the undue delay in completion of the departmental inquiry except to throw blame on the Appellant's conduct which we feel, was not fully justified."

16. Under the facts and circumstances of the case and in the light of the law laid down by the Hon'ble Supreme Court with regard to delay, I am of the view that the charge sheet deserves to be quashed on the ground of unexplained inordinate delay in concluding the disciplinary proceedings.



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17.For all the above reasons, I find merit in the writ petition and hence

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the same is allowed. However, there shall be no order as to costs. Consequently,
connected writ miscellaneous petitions are closed.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

dsn/ah

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