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W.P.No.17932 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.11.2025

PRONOUNCED ON : 28.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.17932 of 2019
and W.M.P.Nos.17335 and 17336 of 2019

V.Selvakumar

.. Petitioner

vs

1.The District Collector
Kancheepuram District,
Kancheepuram.

2.The Inquiry Officer/Assistant Project Officer
District Rural Development Agency
Kancheepuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus to call for the records of the 2nd respondent in its impugned notice R.C.No.2779/2018/A1 dated 10.05.2019 and the consequential proceedings of the 2nd respondent in its R.C.No.2779/2018/A1 dated 06.06.2019 and quash the same and consequently forbear the respondent from proceeding against the petitioner herein by way of disciplinary proceedings and further direct the respondents to treat the petitioner as having retired from service with effect from 01.12.2016 and pay pension and other admissible terminal benefits within a time frame to be fixed by this Court.



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or final orders passed therein by the Competent Authority; and that despite more than 9 years had passed by since, then no orders are passed till date.

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3. It is the further case of the petitioner that since, the charge memo dated 30.11.2016 was issued on the last date of his service, he had challenged the same by filing a writ petition before this Court vide W.P.No.43230 of 2016 and the same was dismissed on 14.09.2017; that aggrieved by the aforesaid dismissal, he had preferred an appeal vide W.A.No.202 of 2018; that this Court by order dated 31.01.2018 disposed of the aforesaid writ appeal directing the respondents to conduct enquiry and complete the disciplinary proceedings within a period of three months from the date of receipt of a copy of the judgment; and that the petitioner was granted liberty to raise all the contentions including the defence of delay in issuing charge memo, acquittal in criminal proceedings in his favour among other grounds, in the disciplinary proceedings.

4. Petitioner contended that despite this Court fixing outer time limit for conducting and completing the enquiry initiated against him, though the first respondent appointed the second respondent as an Enquiry Officer vide proceedings dated 15.05.2018, as the second respondent did not commence



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the enquiry and submit his report within the time fixed by this Court or as mentioned in the proceedings of the first respondent dated 15.05.2018 and since, time limit fixed by this Court had lapsed in June, 2018 and nearly a year having passed by therefrom, he had initiated contempt proceedings; that on this Court issuing notice in Contempt proceedings on 27.04.2019, the second respondent issued notice calling upon the petitioner to appear for enquiry on 20.05.2019, only to show to the Court in the contempt proceedings that enquiry has commenced.

5. The petitioner further contended that this Court taking note of the aforesaid submission being made in the contempt petition of the second respondent having issued notice in enquiry proceedings, closed the contempt petition granting liberty to workout the remedy as per law against the pending proceedings. Thus, assailing the said notice, present writ petition is filed.

6. The petitioner further contended that since, the impugned notices are issued by the second respondent beyond the time prescribed in the proceedings by which, he was appointed and also being beyond the time limit specified by this Court for conducting and completing enquiry and



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inasmuch as no extension of time has been sought by the respondents from this Court, the second respondent cannot be allowed to proceed with the enquiry, as the same is barred by time.

7. It is also contended by the petitioner that the respondents did not allow the petitioner to retire on attaining the age of superannuation though was paid subsistence allowance under F.R.54 for some period, have stopped paying the subsistence allowance since, December 2021 onwards and as such, the respondents cannot claim pendency of disciplinary proceedings.

8. In support of the above contentions, the reliance is placed on the decision of the Hon'ble Apex Court in the following cases:

(i). *UCO Bank and others vs. Rajendra Shankar Shukla* -
(2018) 14 SCC 92

(ii). *G.M.Tank vs. State of Gujarat* - (2006) 5 SCC 446

(iii). *Ram Lal vs. State of Rajasthan and others* -
(2024) 1 SCC 175

(iv). *P.V.Mahadeven vs. MD. T.N., Housing Board* -
(2005) 6 SCC 636.

9. Counter and additional counter affidavit is filed on behalf of the first respondent.



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10. The first respondent by the counter affidavit while not disputing the factual aspects stated by the petitioner, however, contended that the order of this Court in Writ Appeal was received by the first respondent on 15.05.2018 and on receiving the aforesaid order had appointed an Enquiry Officer on the same day.

11. By the counter affidavit, it is further stated that the Enquiry Officer who was appointed to enquire into and submit his report could not conduct that the enquiry as the said Officer was incharge of other schemes, and that there were vacancies in the cadre of Assistant Director, and as such, the Enquiry Officer could not fix the date for departmental enquiry and thus, delay had occurred.

12. By the counter affidavit, it is further contended that the enquiry officer had addressed the communications on various dates to the Director of Vigilance and Anti Corruption Department to depute Enquiry Officer/ Inspector to assist the Departmental Enquiry Officer and to produce witnesses; and that as the Director of Vigilance and Anti-corruption Department did not depute Enquiry Officer, the first respondent had finally sent D.O. letter dated 14.05.2019 to the Director of Vigilance and Anti



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Corruption Department to depute Enquiry Officer of DVAC to appear before the Departmental enquiry officer on 20.05.2019 and to assist the enquiry officer and to produce witnesses; and that the Enquiry Officer also sent call letter on 10.05.2019 to the delinquent officer/ petitioner herein and complainant to appear before the Departmental Enquiry on 20.05.2019.

13. By the counter affidavit, it is contended that though the enquiry officer attended the enquiry on 20.05.2019, the delinquent officer i.e., the petitioner and the complainant did not attend the enquiry and thus, the enquiry was re-scheduled to 14.06.2019; that on 14.06.2019, while the enquiry officer and the complainant appeared before the Enquiry Officer, the delinquent i.e., the petitioner did not attend the enquiry and in the meantime, the petitioner approached this Court and filed a contempt petition vide Cont.P.No.386 of 2019 before the Division Bench alleging that no enquiry was conducted in the disciplinary proceedings initiated against him; and that when the contempt petition was taken up, the petitioner did not press the said contempt petition and accordingly, the said petition was closed on 14.06.2019.



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14. The respondents, by the additional counter affidavit further contended that this Court in its order dated 14.09.2017 in W.P.No.43230 of 2016 directed the petitioner to submit his explanation/objection before the Enquiry Officer in respect of disciplinary proceedings initiated against him and that the petitioner did not submit any explanation despite the aforesaid direction of this Court; and that the Division Bench of this Court in W.A.No.202 of 2018 also directed the petitioner to raise all his contention before the Enquiry Officer; and that the petitioner instead of raising the pleas available to him by filing his explanation/objection, failed to appear before the Enquiry Officer and has filed the present writ petition assailing the notices issued to him by the Enquiry Officer to appear before him to defend the charges against him and as such, the writ petition is liable to be dismissed.

15. I have taken note of the respective contentions urged.

16. The facts which are not in dispute are that initially petitioner was suspended from service on account of being involved in a bribery case which resulted in criminal prosecution being lodged against him under the Provisions of Prevention of Corruption Act, 1988 and the said proceedings



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having resulted in acquittal and the petitioner being discharged of the charges levelled against him on 12.05.2009. Though the respondents in a writ appeal filed by the petitioner against order of this Court in W.P.No.43230 of 2016 had claimed of an appeal having been filed against the acquittal recorded in the criminal prosecution, no material has been placed before this Court to show the pendency of any appeal against the order dated 12.05.2009 passed by the Chief Judicial Magistrate, Chengalpattu in Spl.C.No.7 of 2007. Thus, the order of acquittal has attained finality.

17. It is also further admitted fact that on the petitioner being involved in bribery case in the year 2005 and being in detention for a period of 48 hours, the respondents having placed the petitioner under suspension, no disciplinary proceedings have been initiated against him during the period from 2005 to 2009, when the petitioner was discharged in the criminal prosecution.

18. It is also to be noted that the respondents thereafter also did not take any steps to initiate any disciplinary action against the petitioner and it is only on 30.11.2016, the petitioner was issued with charge memo, whereby,



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the respondents initiated disciplinary action against the petitioner. Thus, it cannot be said that issuance of articles of charge on 30.11.2016 is a coincidence with that of the date of retirement of the petitioner, as 11 years had passed, since, the date of occurrence of incident, in respect of which, the said proceedings are sought to be initiated.

19. However, on the petitioner approaching this Court against issuance of the charge memo after a lapse of 11 years and on the Single Judge of this Court dismissing the writ petition and on the petitioner preferring further appeal, the Division Bench of this Court taking note of the submission made on behalf of the respondents that the department had filed revision against the order of Chief Judicial Magistrate, Chengalpattu in Spl.C.No.7 of 2007 against discharge recorded, directed the respondents to conduct enquiry and complete disciplinary proceedings within a period of three months from the date of receipt of a copy of the order. The aforesaid direction came to be passed on 31.01.2018. Though the respondents claimed that the order of this Court having been served on the 1st respondent on 15.05.2018 and on the same day, the said respondent having appointed an enquiry officer to conduct enquiry and submit report and also specifying therein that the enquiry report to be submitted within a period of 60 days, the



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respondents by the counter affidavit filed admit to the fact of the enquiry officer having not initiated the enquiry proceedings by issuance of notice to the petitioner and to the complainant. It is only after a lapse of nearly 1 year, the first notice came to be issued by the Enquiry Officer. No material is placed before this Court to show that the Enquiry Officer having sought for extension of time from the first respondent who had appointed him as an enquiry officer.

20. Further, the first respondent to whom a direction was issued by this Court in W.A.No.202 of 2018 to conduct enquiry and complete disciplinary proceedings within a period of three months, also did not approach this Court seeking extension of time on the alleged grounds mentioned in the counter affidavit filed in the present writ petition. Since, this Court had fixed time limit for the respondents to complete enquiry within a period of 3 months and the said time limit having expired long back including the period when the present writ petition is pending consideration and the respondents having not taken any steps to seek extension of time from this Court, the explanation offered by the respondents by the counter affidavit is to be construed as an after thought.



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21. Further, the delay in completing disciplinary proceedings and also not paying subsistence allowance to the petitioner from December, 2021 only goes to show that the respondents are not serious in pursuing the proceedings against the petitioner and the proceedings are kept pending only for statistical purposes and to cause harassment.

22. It is a settled position of law that inordinate delay in initiating departmental enquiry and protraction without convincing explanation could be prejudicial to the employee. This Court while disposing the writ appeal No.202 of 2018 taking note of the settled position of law having directed the respondents to conduct and complete enquiry within time frame and the respondents having failed to adhere to the said time limit, cannot on their own seek to extend the time as fixed by this Court, without this Court doing so. Thus, this Court is of the considered view that the respondents cannot be allowed to proceed further with the enquiry, having failed to seek extension of time from the Hon'ble Division Bench of this Court.

23. Further, a perusal of the charge memo as issued to the petitioner shows that the initiation of disciplinary proceedings is on the basis of complaint lodged by one Mr.M.Jothi, complaining of petitioner demanding



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bribe, for which, a crime has been registered under the Provisions of Prevention of Corruption Act, 1988. Since, the charge under which the respondents intended to initiate disciplinary action is one and same as that of the contents of the complaint on the basis of which the criminal complaint is lodged and the said criminal prosecution having resulted in acquittal, wherein the prosecution had failed to establish of petitioner having demanded to pay the bribe for doing an official favour and as the evidence for the purpose of proceeding with the disciplinary proceedings is also the same, the respondents cannot ignore the discharge recorded by the Chief Judicial Magistrate, Chengalpattu which had conducted the criminal prosecution initiated against the petitioner. Though for departmental enquiry, what is required to be gone into for visiting with punishment is preponderance of probability while in criminal proceedings, it is beyond reasonable doubt, however, it has been held by the Apex Court that if the charges, evidence, witnesses and circumstances in both departmental and the criminal proceedings are identical and substantially similar, the departmental action cannot be proceeded with.

24. The Hon'ble Supreme Court in the case of ***Maharana Pratap Singh vs. State of Bihar and others*** – (2025 SCC Online SC 890) referring



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to the case of **Ram Lal vs. State of Rajasthan and others – (2024) 1 SCC**

175, held as under :-

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“47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in G. M. Tank (supra), since reinforced by a decision of recent origin in Ram Lal v. State of Rajasthan”.

25. Further, in the case of **P.V.Mahadeven vs. MD, T.N., Housing**

Board, reported in (2005) 6 SCC 636, held as under:

“11. Under the circumstances, we are of the opinion that allowing the respondent to proceed further with the departmental proceedings at this distance of time will be very prejudicial to the appellant. 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



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interests of the government employee but in public interest 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 the department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

12. We, therefore, have no hesitation to quash the charge memo 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 costs.”

26. The Apex Court in the case of ***UCO Bank and others vs. Rajendra Shankar Shukla*** reported in (2018) 14 SCC 92 dealing with the aspect of inordinate delay in issuing charge memo held in Paragraph No.12 and 13 as follows:



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“12. We do not find any reason to interfere with the judgment and order passed by the High Court. However, it is necessary for us to highlight a few facts which were brought to our notice during the course of submissions made by the learned counsel. The first issue of concern is the enormous delay of about 7 years in issuing a charge-sheet against Shukla. There is no explanation for this unexplained delay. It appears that some internal discussions were going on within the Bank but that it took the Bank 7 years to make up its mind is totally unreasonable and unacceptable. On this ground itself, the charge-sheet against Shukla is liable to be set aside due to the inordinate and unexplained delay in its issuance.

13. What compounds the default on the part of the Bank is that Shukla was placed in a higher category as a Manager on 19-7-1994 while all these discussions were going on in the Bank. He was also allowed to cross the efficiency bar on 12-8-1996 again while the discussions were going on. Surely, if the Bank was serious about proceeding against Shukla for misconduct, they would not only have taken prompt action in issuing a charge-sheet but would not have granted him the benefit of being placed in a higher category or crossing the efficiency bar.”

Court in W.P.Nos. 24167 and 24170

of 2024 in the case of ***S.Vijayasekar vs. The State of Tamil Nadu rep. By its Principal Secretary to Government and another***, held as under:

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“26. In the light of the above discussion, the charge memo issued by the first respondent in Letter No.e-6493/Police-XVII/2023-5 dated 03.05.2024 is hereby quashed. Consequently, the Government Order issued by the first respondent in G.O.(2D) No.244 Home (Police-XVII) Department dated 31.07.2024 not permitting the petitioner to retire from service is also quashed. As a sequitur, there shall be a direction to the respondents to allow the petitioner to retire from service with all consequential and other attendant benefits. Necessary orders shall be passed in this regard within a period of six weeks from the date of receipt of a copy of this order.”

28. A conspectus of the aforesaid decisions of the Hon'ble Apex Court, applied to the facts of the case, it is clear that no explanation is forthwith coming from the respondents as to why no departmental proceedings was initiated when the alleged incident of petitioner demanding bribe had taken place in the year 2005 and the compelling reason for the respondents, for initiating departmental action on 30.11.2016 much after the petitioner securing discharge in the criminal prosecution.

29. Further, the respondents pursuant to the order of this Court dated 30.01.2018 in W.A.No.202 of 2018 having appointed an Enquiry Officer on



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15.05.2018, whereby, the respondents were directed to conduct and complete enquiry within a period of three months and the enquiry officer having not taken any action to complete the enquiry by issuing notice to the petitioner and the complainant and by submitting his report within a period of 60 days as directed and also having not sought for any extension of time either from the first respondent and the first respondent approaching this Court, only goes to show that the respondents in the name of pendency of disciplinary proceedings against the petitioner intended not to allow the petitioner to retire from service on attaining age of superannuation on 30.11.2016 and intend to drag on the proceedings which this Court has to presume only for the purpose of harassing the petitioner and also subjecting him to mental agony.

30. In view of the above, this Court has no hesitation to held that the respondents having not initiated any action against the incident that had taken place in the year 2005 and the petitioner having secured discharge in the criminal prosecution initiated against him in relation to the alleged offences, the charge memo dated 30.11.2016 as issued in relation to the said offence after a period of 11years cannot be allowed to be proceeded with, at this point of time.



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31. Accordingly, the writ petition is allowed, the impugned notice of the second respondent dated

as having been issued

beyond the time specified by this Court for conducting and completing the enquiry in W.A.No.202 of 2018 dated 31.01.2018. No order as to costs.

Consequently connected miscellaneous petitions are closed.

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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

msv

To

1.The District Collector
Kancheepuram District,
Kancheepuram.

2.The Inquiry Officer/Assistant Project Officer
District Rural Development Agency,



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Pre-Delivery Order in

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