

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 04.04.2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

WP No. 18578 of 2024

and

WMP NO. 20364 of 2024

M.Muthukumar

Petitioner(s)

Vs

1. State of Tamil Nadu

Rep. by its Secretary,

Municipal Administration and Water Supply Department (MAWS)

Secretariat, Fort St. George,

Chennai - 600 009.

2.The Director,

Director of Municipal Administration,

No.78, Urban Administration Building,

Santhome High Road,

Chennai - 600 09.

3.The District Collector,

Tiruppur District,

Tiruppur.

4.The Chairperson



Local Compliance Committee,
Joint Director / Project Director,
Office of Magalir Thittam,
Collectorate,
Tiruppur.

5.The District Social Welfare Officer,
District Welfare Office,
Nos.35, 36 District Collector Office,
Tiruppur.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the 2nd respondent in Na.Ka.No.24366/2021/C2 dated 20.01.2024 and to quash the same.

For Petitioner(s): Mr.L.P.Maurya

For Respondent(s): Mr.C.Selvaraj, AGP for R1 to R5

ORDER

This Writ Petition has been filed in the nature of a Certiorari seeking records of the 2nd respondent in Na.Ka.No.24366/2021/C2 dated 20.01.2024 and to quash the same.



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2. In the affidavit filed in support of the writ petition, it had been contended that the writ petitioner had been appointed to the post of Municipal Commissioner Grade-II by direct transfer w.e.f., 09.03.2020 in Punjai Puliambati Municipality, Erode District vide G.O.3D.No.8 MAWS Department dated 10.02.2020. The next avenue of promotion was to the post of Municipal Commissioner Grade-I. The petitioner was then transferred to Kulithalai Municipality and later to Kangeyam Municipality on 20.07.2021.

3. It had been further contended that on 01.09.2021, the 2nd respondent had convened a review meeting for all Commissioners and in that review meeting, the 2nd respondent / the Director of Municipal Administration had directed that several complaints had been received regarding appointment of Domestic Breed Checkers (DBC) and a direction was issued to examine the appointment orders of all such workers and take action, if they had been illegally appointed.

4. It had been further stated that consequent instructions had been issued by the 2nd respondent in proceedings dated 17.09.2018. The petitioner thereafter,



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examined the files relating to appointment of DBC workers on 02.09.2021 and found that their appointments were not in accordance with the provisions of the Transparency of Tenders Act, 1998 and that the appointments were illegal. He had therefore directed the Sanitary Inspector on 02.09.2021 to inform the 40 DBC workers to not report to duty from the following date. He had also issued a show cause notice on 22.10.2021 to the Sanitary Inspector seeking explanation regarding the illegal appointment of DBC workers. He had then issued a charge memo to the Sanitary Inspector on 19.11.2021. He then came to know that one DBC worker had filed a complaint against him alleging that he had asked her to do domestic work in his house and had sexually harassed her. Thereafter, a complaint which was not dated had been given by the said individual.

5. The petitioner, then received a communication from the office of the 5th respondent on 23.09.2021 directing him to cooperate with an enquiry to be held on 23.09.2021, following the complaint from three separate DBC workers alleging sexual harassment. The petitioner, then received the charge memo on 11.11.2021, wherein charges have been framed against him. An enquiry report



of the 5th respondent was also submitted. The petitioner was transferred to Thiruthuraipoondi on 11.11.2021. He was again transferred to Kaalakadu

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Municipality. Complaining that the 5th respondent has no jurisdiction to conduct an enquiry, the petitioner filed a writ petition questioning the charge memo issued by the 2nd respondent. By an order dated 04.04.2022 in W.P.No.29996 of 2022, the charge memo was quashed, but liberty was granted to initiate appropriate action on the report of the Local Complaints Committee.

6. Thereafter, further proceedings were initiated directing the petitioner to appear before the Local Complaints Committee for investigation on the sexual harassment complaints given by the three DBC workers. Further, report was submitted that the allegations were true. The petitioner then claimed that the Local Complaints Committee was acting with prejudice to him. It had been stated that he had attended the enquiry on 29.08.2022 and submitted documents during the enquiry. It had been further stated that further proceedings were conducted *ex-parte*. He had then given objections regarding the constitution of the Local Complaints Committee. The Committee was then reconstituted on



23.07.2022. The impugned order had been then passed framing charges against the petitioner herein. It is contended that the suspension and the charge memo were both quashed by orders of this Court.

7.A further newly constituted Committee was then formed and an enquiry was conducted on 19.09.2023. It had been stated that the petitioner on conclusion of enquiry was directed to give explanation. The petitioner had given an explanation under further representation. Thereafter, complaining that the procedure as enunciated by law was not followed, the petitioner filed yet another writ petition seeking permission of the report of the Local Complaints Committee. That writ petition was disposed of on 11.01.2024. An enquiry was then conducted on 05.09.2023 and it was concluded on 14.10.2023 and the report was furnished on 30.04.2024. It is thus seen that the petitioner had been challenging every stage of the complaint against him given by the three DBC workers.

8.The learned counsel for the petitioner placed reliance on the order of a learned Single Judge of this Court in W.P.No.2237 of 2024 dated 15.10.2024,



who while examining the order of suspension passed against the petitioner had an occasion to observe as follows:

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"8.The short issue that arises for consideration in the present writ petition is as to whether the order of suspension passed against the petitioner has to be continued after the above development that has taken place whereby on the same set of facts, criminal proceedings were initiated and all the FIRs came to be quashed by this Court by order dated 21.02.2024, by holding that the complaint given against the petitioner is false and it has been given only to wreak vengeance and it is an abuse of process of law.

9.There is no dispute with regard to the fact that the 2nd respondent is competent to place the petitioner under suspension. When the suspension order was passed, an allegation was made against the petitioner, as if, he has sexually harassed the DBC workers. However, this Court on going through the materials found that the criminal proceedings initiated against the petitioner is an abuse of process of law and tha a false complaint has been given against the petitioner to wreak vengeance. In the light of this finding given by this Court in the quash petitions, there is no justification to continue with the order of suspension passed against the petitioner.

10.In the light of the above discussion, this Court is inclined

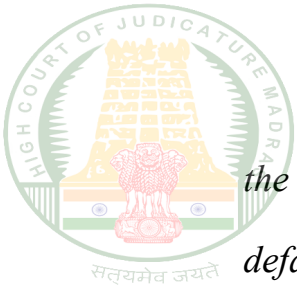


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to interfere with the order of suspension passed against the petitioner by the 2 nd respondent in ROC No.24366/2021/C2 dated 12.01.2024 and the same is hereby quashed. As a consequence, there shall be a direction to the 2 nd respondent to reinstate the petitioner into service with all attendant benefits by passing necessary orders forthwith."

9.The learned counsel for the petitioner further placed reliance on the observations of the learned Single Judge in Crl.O.P.Nos.9735, 9736 and 9737 of 2022, which had been filed to call for records relating to FIR in Crime Nos.4, 5 and 6 of 2022 on the file of the Kangeyam All Women Police Station, Tiruppur and to quash the same. The learned counsel placed specific reliance on the observations at paragraph Nos.13 and 14 which are as follows:

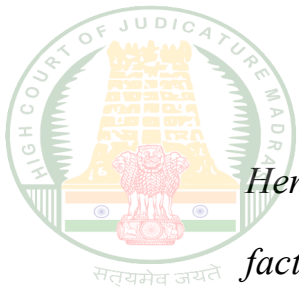
"13.Admittedly, if at all any such occurrence on 23.08.2021 all these respondents/workers ought to have given such complaint at earlier point of time. But there is no complaint at earlier point of time. Subsequently, they developed undated complaint, if at all any harassment made by the petitioner, the defacto complainants ought to have specifically mention the date and events but all were gave complaint without mentioning the date and it clearly reveals that after termination, they have foisted a false complaint against



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the petitioner. Taking into advantage that she being women, the defacto complainants created undated complaint as if she was abused by the petitioner, subsequently, they developed the complaint by mentioning date and events and preferred the complaint before the Principal District Court, Tiruppur.

14. On seeing the order passed by the District Court, simply stated that he found prima facie allegations without assigning any reason nor relied any material evidence to that effect. Hence, the order passed by the District Court is erroneous one. In the instant case, as per the direction of higher officials, the petitioner has examined the appointment of DBC workers and found that they are illegally appointed. Thereafter, the petitioner has issued a show cause notice to the Sanitary Inspector who appointed them and also issued a charge memo. Further, the petitioner has terminated the unauthorized DBC workers lawfully. After terminating of DBC workers, the defacto complainants gave false this complaint as if the petitioner has sexually harassed them. On seeing the entire facts and circumstances of the case, after terminating of DBC workers, they gave false complaint against the petitioner without sufficient materials. Hence, there is no materials against the petitioner that he has harassed the defacto complainants and abused mentioning her caste name, in order to wreak vengeance, they gave false complaint after the termination.



Hence, it is a clear case of abusing process of law. Further, the fact reveals that those labourers were now employed by following proper procedure. Therefore, this Court is inclined to quash the proceedings in Crime Nos.4, 5 and 6 of 2022 on the file of the second respondent police."

10.Placing his arguments on the observations made aforementioned, the learned counsel stated that, since it had been observed that the complaints themselves are false and FIRs had been quashed and further since the criminal complaint and the disciplinary proceedings proceeded on the same set of facts, the present writ petition has been filed seeking interference with the impugned order dated 20.01.2024.

11.A counter affidavit had been filed, wherein it had been stated that with the directions of this Court, a Local Complaints Committee had been constituted under Section 6 of the Protection of Women from Sexual Harassment at Work Place Act, 2013. The composition of the Committee had also been stated in the counter affidavit. It had been stated that summons had been issued for the appearance for enquiry. The complainants had appeared and given their



statement. The petitioner had however failed to appear. The matter dragged on and an another Committee had been formed. This Committee again conducted an enquiry on 29.08.2022 and a report has been forwarded to the 2nd respondent by the District Collector, Tiruppur. It had been stated that the allegations had been established. It had been stated that the charge memo had been issued and the petitioner had been placed under suspension. Thereafter, the petitioner had filed further writ petitions. It had been stated that, in order to delay the enquiry process, the petitioner kept issuing letter after letter seeking registers and statements given by the witnesses. It had also been stated that the enquiry report had already been served on the writ petitioner along with relevant documents on 16.11.2023.

12.The petitioner then filed a further writ petition seeking further documents. Finally, a charge memo was issued on 20.01.2024 along with all documents and the same had been served on the petitioner. The petitioner was granted time to file explanation his defense. Thereafter, the petitioner was placed under suspension. The petitioner had stated that he filed the present writ petition claiming that the disciplinary proceedings is not maintainable.



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13. In this connection, the respondents placed reliance on G.O.Ms.No.19, Personnel and Administrative Reforms Department dated 11.02.2008. It had been stated that the 2nd respondent is empowered to frame charge and initiate disciplinary proceedings in accordance with the rules. It had been further stated that the allegations are serious in nature and that the petitioner had sexually harassed the women workers in his office and had misbehaved with them and they belonged to down trodden community and had also abused them in the name of their community. It had been further stated that after examination of the report received from the District Collector, Tiruppur, it was observed that the allegation of sexual harassment had been held proved. It had been finally stated that the petitioner had been given necessary opportunity to give his explanation on the report given by the Local Complaints Committee. Even though the petitioner had given an explanation, it had been stated that further proceedings will have to be now initiated by the respondents.

14. On the side of the respondents, it had been urged that the complaints against the petitioner are serious in nature and given by three women, who



belonged to down trodden community, who alleged they had been sexually harassed in the office by the petitioner and also by abusing their community name. It had therefore been stated that the respondents will necessarily have to

conduct an enquiry into these allegations. It had therefore been stated that the writ petition should be dismissed.

15.I have carefully considered the arguments advanced and perused the materials on record.

16.The writ petitioner was working as Municipal Commissioner Grade – II, Kangeyam Municipality to which post he had been transferred on 20.07.2021. It is his case, that consequent to a communication issued by the Director of Municipal Administration in proceedings dated 17.09.2018 to examine the appointment of Domestic Breed Checkers (DBC), the petitioner had examined the files relating to the appointment of DBC workers on 02.09.2021 and had come to a conclusion that the appointments were not in order. The petitioner then sought an explanation through the Sanitary Inspector



and since explanation was not submitted, he had also issued a charge memo to the Sanitary Inspector. Thereafter, he came to understand that one DBC worker

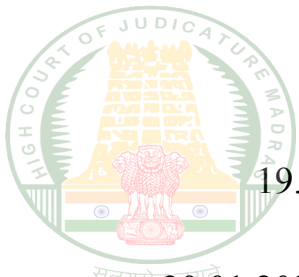
had filed a complaint against him alleging that he had asked her to do domestic work in his house and had sexually harrassed her. Thereafter, a complaint which was not dated has been given by the said individual. The petitioner then received a communication from the office of the 5th respondent on 23.09.2021 directing him to cooperate with an enquiry, following the complaints from three separate DBC workers alleging sexual harassment. Necessary enquiry will have to be conducted on those allegations.

17.Parallelly, a criminal complaint had also been lodged and FIR in Crime Nos.4, 5 and 6 of 2022 had been registered by the All Woman Police Station, Kankeyam. Those three FIRs were put to test by the petitioner by filing Crl.O.P.Nos.9735, 9736 and 9737 of 2022 and a learned Single Judge of this Court by an order dated 21.02.2024 had quashed the FIRs.The operative portion of the order of the learned Single Judge had been extracted above. It had been observed by the learned Single Judge that complaints had been given with delay



and it had also been observed that the complainants had foisted a false complaint against the petitioner. It had also been stated that the District Court had found that prima facie allegations are available and it had been stated that since there are no materials against the petitioner herein, the FIRs in Crime Nos.4, 5 and 6 of 2022 have to be quashed.

18. There is yet another judicial order, which is relied on by the learned Counsel for the petitioner and that is an order by a learned Single Judge in W.P.No.2237 of 2022 filed by the petitioner questioning an order of suspension passed against him on 12.01.2024. The learned Single Judge while allowing the said writ petition had given his observations in paragraph Nos.8, 9 and 10 which had been extracted above. It had been opined by the learned Single Judge that the proceedings initiated against the petitioner were an abuse of process and that false complaints had been given against the petitioner with vengeance. It had therefore been concluded that there was no ground to continue the order of suspension against the petitioner herein.



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19. The issue before this Court is to examine the impugned order dated 20.01.2024 issued by the 2nd respondent. The impugned order is a charge memo issued to the petitioner herein. The learned counsel for the petitioner complained that the facts, as stated in the charge memo are exactly the same as was stated in the complaint given before the jurisdictional police. It had been contended that since the FIRs had been quashed and a finding had been given that the particular complaint was false, this Court should interfere with the charge memo and also quash the same. It had also been stated that another judicial opinion had been given by yet another learned Single Judge of this Court that the complaints given were false in nature and therefore, the order of suspension imposed against the petitioner must be revoked.

20. In the impugned order dated 20.01.2024, it had been stated that complaints had been received from three DCB workers and on the basis of such complaints, three separate charges had been framed. The first one was about sexual harassment of the three victims by the petitioner herein. The second one was that he had engaged one of them as a domestic worker in his house. The



third one was that owing to his conduct, he had failed to uphold the dignity of his office.

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21. The issue before this Court is about examination of these three particular charges. Before a criminal Court, when evidence is let in, that evidence is appreciated in a different manner to examine whether the said evidence adduced would prove the charges beyond reasonable doubt. The Trial Judge would also examine whether, even if there is evidence, benefit of doubt could be given to the accused as against the version of the prosecution. The same set of evidence when adduced by the witnesses before the disciplinary proceedings will have to be viewed with different eyes. It will have to be examined whether this particular evidence which is adduced and which is similar in nature, to the one adduced before the criminal court, on preponderance of probabilities namely by weighing the scale as to whether which they established the charges not beyond reasonable doubt, but showed that there is a possibility that the allegations could have happened.



22. Therefore, even if there is an acquittal before a criminal Court, the disciplinary enquiry could proceed and a finding could be returned that the charges had been established. The word used is never 'proof' in a disciplinary proceedings. The allegations need not be proved beyond reasonable doubt. It is only examined whether the charges or the allegations raised were probable of having been committed or the allegations said to have been committed by the delinquent could have been committed by the delinquent. It is only on the basis of probabilities that the evidence is assessed.

23. It is trite in law to point out that parallelly both criminal proceedings and departmental proceedings can proceed. There could be instances where both the evidences are the same. The same evidence adduced before the criminal court would be viewed differently before the departmental proceedings. The enquiry officer only probes to find out whether on the face of it, the allegations could be sustained or not.



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24. The second charge is that the petitioner had used the services of one of the complainant as his domestic worker. It is also to be noted that, in the counter affidavit very specially it had been stated that the complainant belonged to down trodden community and the petitioner had not only abused her sexually, but also defamed her by naming her community. This is a conduct, which is unbecoming of a Government servant and more particularly, in the grade of the petitioner herein who is in a position to abuse his office and to exercise influence over the DBC workers. An enquiry was already being conducted against the DBC workers examining their appointment. Therefore the petitioner was in a position to exercise influence over them. Their appointment could be stated to be illegal by the petitioner herein. He had launched himself into an enquiry over their very appointment. They had to be submissive to him. The question whether he had taken advantage of such submission is an issue which could be determined only during the departmental proceedings.

25. It is now contended that enquiry had already been completed and a report had also been forwarded to the 1st respondent. It is for the 1st respondent



to pass appropriate orders. The petitioner has filed the present writ petition

questioning the charge memo when much water had flowed by and statements

had been recorded and the enquiry report had been forwarded to the 1st

respondent. As seen from the records, the petitioner has an affinity to approach

this Court and it should be stated that the Courts have also been extremely

liberal to the petitioner herein. I am not prepared to adhere to that particular

stand as against the petitioner.

26.If there is an allegation of sexual harassment, it has to be enquired to maintain the sanctity and dignity of the office which the petitioner holds and also to maintain the sanctity and dignity of the office where the petitioner is working. No woman can be turned out merely because, she is a woman and merely because, she belongs to a down trodden community. If she raises a voice of sexual harassment, it has to be enquired. The only way it could be enquired is through a departmental proceedings. The departmental proceedings had been initiated, concluded and now the matter is before the 1st respondent to pass further orders.



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27. There cannot be an interference with the charge memo which had been issued. The petitioner had participated in the enquiry. He had been served with the relevant documents. He had not approached the Court at that relevant point of time. He now insists after the enquiry had concluded that the charge memo should be quashed. I am not prepared to give any consideration to such stand taken by the petitioner herein. The allegations are extremely serious. The enquiry will have to go through its logical course and conclusion will have to be reached. The writ petition is devoid of merits and the same stands dismissed. No costs. Consequently, connected miscellaneous petitions is closed.

04.04.2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

**C.V.KARTHIKEYAN, J.***smv*

To

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