



W.P.Nos.31840 and 33081 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.31840 and 33081 of 2023
and W.M.P.Nos.31448 and 32760 of 2023

W.P.No.31840 of 2023:-

M.Krishnan

... Petitioner

-Vs-

1. The Joint Registrar of Co-Operative Societies,
Dharmapuri Region, Dharmapuri.
2. The Deputy Registrar of Co-Operative Societies,
(Housing), Vellore Region,
Vellore.

...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 of the charge memo issued by the second respondent in Na.Ka.No.270/2005 E dated 23.11.2005 consequential order of suspension passed by the first respondent in Rc.No.3442/2009 patho dated 13.04.2009 not allowing the petitioner to retire from service and order in Rc.No.3442/2009 patho dated 30.04.2009 quash the same and consequently direct the first respondent to allow the petitioner to retire from service and pay all monetary benefits, monthly pension with statutory interest @ 10 percent per annum from the date of superannuation till payment.



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For Petitioner : Mr.M.S.Palaniswamy
For Respondents : Mrs.M.Geetha Tamarai Selvan
Special Government Pleader

W.P.No.33081 of 2023:-

M.Krishnan

... Petitioner

-Vs-

1. The Joint Registrar of Co-Operative Societies,
Thiruvanamalai Region, Thiruvanamalai.
2. The Deputy Registrar of Co-Operative Societies,
(Housing), Vellore Region,
Vellore.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the charge memo issued by the second respondent in Na.Ka.3315/2009/E(1) dated 20.06.2011 quash the same.

For Petitioner : Mr.M.S.Palaniswamy
For Respondents : Dr.S.Suriya
Additional Government Pleader

COMMON ORDER

W.P.No.31840 of 2023 has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records of the charge memo issued by the second respondent in Na.Ka.No.270/2005 E dated 23.11.2005 consequential order of suspension passed by the first respondent in Rc.No.3442/2009 patho dated 13.04.2009 not allowing the petitioner to retire from service and order in Rc.No.3442/2009 patho dated 30.04.2009 and to quash the same and



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consequently direct the first respondent to allow the petitioner to retire from service and pay all monetary benefits, monthly pension with statutory interest @ 10 percent per annum from the date of superannuation till payment.

2. W.P.No.33081 of 2023 has been filed challenging the charge memo dated 20.06.2011 issued by the second respondent.

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

4. The petitioner was appointed as Senior Inspector in the Co-operative Department and subsequently, promoted to the post of Sub-Registrar of Co-operative Society. The petitioner was deputed as Co-operative Sub Registrar from 03.05.2002 to 02.05.2005 and subsequently, he was transferred as Co-operative Sub-Registrar Veterinary Department from 16.05.2005 to 06.12.2006. The petitioner had attained the age of superannuation on 30.04.2009. While he was working as Co-operative Sub-Registrar, the second respondent had issued charge memos under Section 17(b) of Tamil Nadu Civil Supplies (Disciplinary and Appeal) Rules dated 23.11.2005 and 12.12.2008.



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5. The charge memo consisted of eight charges alleging that the petitioner had issued false completion certificate without completing the construction.

After conducting the enquiry, the Enquiry Officer found six charges proved and two charges not proved. After receipt of the petitioner's explanation, no final order was passed and it is pending before the first respondent. Consequently, the petitioner was not permitted to retire on the date of his superannuation and as such, the petitioner filed a writ petition before this Court in W.P.No.7401 of 2009. This Court, by an order dated 23.04.2009, directed the first respondent to pass final order on or before 30.04.2009. However, no final order was passed and it was dropped. Thereafter, the petitioner was served with second charge memo dated 19.10.2010, that too after his retirement alleging that the petitioner had failed to inspect the ongoing construction of the borrowers/members and issue the stage-based certificate.

6. W.P.No.33081 of 2023 has been filed challenging the charge memo dated 20.06.2011. After issuance of the second charge memo dated 19.10.2010, once again the petitioner was served with another charge memo dated 20.06.2011. After his retirement, the petitioner was served with another charge memo dated 25.06.2010 consisting of one charge alleging that the petitioner, while he was working as Co-operative Sub-Registrar, Chengam Co-operative



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House Building Society, during 02.12.2005 to 22.06.2004, had issued false completion construction certificate to the members and as such, the Society had suffered loss and it is pending for enquiry.

7. The learned counsel for the petitioner submitted that the charge memos issued against the petitioner cannot be sustained on the ground of latches. For the alleged occurrences that took place during the years 2002-2005, the petitioner has now been issued with three charge memos, which are still pending. There has been an unexplained and inordinate delay in concluding the disciplinary proceedings and as such, the petitioner suffered mental agony. Now, the age of the petitioner is 75 and he is in his fag end of life without seeing the color of justice. Even according to the respondents, the charges against the petitioner relate to failure to supervise.

8. On instructions, the learned Special Government Pleader and the learned Additional Government Pleader appearing for the respondents in both the writ petitions submitted that the charge memo issued on the allegation of issuance of false construction certificates aiding 8 bogus loans and caused loss to the tune of Rs.15.20 lakhs. Though the first charge was dropped, enquiry was conducted and six charges were proved out of eight charges, thereby the



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petitioner caused loss to the tune of Rs.9.26 Lakhs. Now, the disciplinary proceedings are not yet completed, since the criminal case is pending. Therefore, the deferral avoided conflicting findings and preserved the integrity of disciplinary action while protecting the departmental process from prejudice. They further submitted that the enquiry has been completed and the final order is yet to be passed.

9. The Hon'ble Supreme Court of India and this Court repeatedly held that if there is no satisfactory explanation for the inordinate delay, it will be unfair to order departmental enquiry to proceed further. Normally, disciplinary proceedings 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 the reason for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings. Therefore, 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.



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10. The Hon'ble Division Bench of this Court in the case of *Special*

Commissioner and Commissioner of Commercial Taxes, Chepauk v.

N.Sivasamy reported in **2005 (5) CTC 451**, held as follows:-

"49.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."

50. In yet another decision in *R.Tirupathy and others v. 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.

51. 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.

52. In *M.Elangovan v. The Trichy District Central Co-operative Bank Ltd.*, reported in 2006 (2) CTC 635, this Court,



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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 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 v. State of Tamil Nadu reported in 2006 (1) CTC 476."

11. In the case on hand, all the charge memos were issued for the occurrence took place in the year 2002-2005. Now, all the charges are pending without passing any final order. Though the criminal case is pending for trial, simultaneous proceeding can be proceeded against a delinquent. Wherever it is necessary, the departmental proceedings can be deferred when the charges are one and the same and the witnesses and documents are one and the same before the disciplinary authority as well as the Criminal Court.

12. In fact, this Court in W.P.No.7401 of 2009 by an order dated 30.04.2009 specifically directed the first respondent to pass final order on or before 30.04.2009. Even then, the respondents failed to pass any final order. Further, it is not in dispute that the delay was not caused due to the petitioner. Further, though there is no time limit fixed for framing of charges and there is no bar, the Hon'ble Supreme Court of India as well as this Court rendered various decisions in respect of inordinate delay.



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13. In this regard, it is relevant to rely upon the Judgment of this Court in

W.P.No.3057 of 2023 dated ***12.07.2023***, wherein this Court held as follows:-

*“ 8. 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. The above Judgment is squarely applicable to the case on hand. When there is an inordinate delay in completing the disciplinary proceedings, the charge memo cannot be sustained and is liable to be quashed. That apart, the petitioner had now attained the age of about 75 years. The petitioner has been facing charges from the year 2009. In fact, three set of charges were served on the petitioner after his retirement.

15. Considering the above facts and circumstances of the case, the charge memos cannot be sustained and are liable to be quashed. Accordingly, the charge memo issued by the second respondent in W.P.No.31840 of 2023 in Na.Ka.No.270/2005 E dated 23.11.2005 and the consequential order of suspension passed by the first respondent in W.P.No.31840 of 2023 in



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Rc.No.3442/2009 patho dated 13.04.2009 and the charge memo issued by the second respondent in W.P.No.33081 of 2023 dated 20.06.2011 are hereby quashed.

16. The first respondent is directed to permit the petitioner to retire from service and pay all the retirement benefits to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. It is also made clear that the petitioner is not entitled for any interest, since the criminal case is pending.

17. Accordingly, these writ petitions are allowed. Consequently, connected Miscellaneous petitions are closed. No costs.

10.11.2025

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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To

1. The Joint Registrar of Co-Operative Societies,
Dharmapuri Region, Dharmapuri.
2. The Joint Registrar of Co-Operative Societies,
Thiruvanamalai Region, Thiruvanamalai.
3. The Deputy Registrar of Co-Operative Societies,
(Housing), Vellore Region,
Vellore.



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G.K.ILANTHIRAIYAN. J,

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