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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)Nos.9595 of 2021 and 24018 of 2024
and
W.M.P.(MD).Nos.7347 and 7348 of 2021,
20334, 20336 & 20337 of 2024 and 20216 of 2022

W.P.(MD).No.9595 of 2021

M.Masanam @ Muthiah ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary,
Revenue Department,
Fort St George,
Chennai.

2.The District Collector,
Theni District,
Theni.

3.The District Revenue Officer,
O/o.The District Revenue Officer,
Theni.

4.The Revenue Divisional Officer,
Uthamapalyam,
Theni District. ...Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Roc.No.A5/39766/2018 dated 19/04/2021 on the file of the respondent No.3 and quash the same as illegal and consequently directing the respondents to treat the period of suspension from 05.08.2011 the date of suspension till the date of Superannuation as duty period with continuity of service and consequently disburse the terminal benefits to the petitioner in light of Rule No.9 of Fundamental Rule 54, as inserted by G.O.M.S.No.228, Personal and Administrative Department, dated 13/04/1989, within the time frame stipulated by this Court.

For Petitioner : Mr.G.Karthik,
for M/s.T.Lajapathi Roy and Associates

For Respondents : Mr.A.Baskaran,
Additional Government Pleader

W.P.(MD).No.24018 of 2024

M.Masanam @ Muthiah ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary,
Revenue Department,
Fort St George,
Chennai.

2.The District Collector,
Theni District,
Theni.

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3.The District Revenue Officer,
O/o.The District Revenue Officer,
Theni.

4.The Revenue Divisional Officer,
Uthamapalyam,
Theni District. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No. A5/39766/2018 dated 20.09.2024 on the file of the respondent no.3 and quash the same as illegal and consequently directing the respondents to treat the period of suspension from 05.08.2011 to 30.04.2012 as duty period with continuity of service and consequently disburse the terminal benefits and arrears of salary and pension with all consequential benefits within the time frame stipulated by this Court.

For Petitioner : Mr.G.Karthik

For Respondents : Mr.A.Baskaran,
Additional Government Pleader

COMMON ORDER

W.P.(MD).No.9595 of 2021 has been filed challenging the impugned order dated 19.04.2021, issued by the third respondent, suspending the petitioner from service on 05.08.2011.

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2. W.P.(MD).No.24018 of 2024 has been filed by the very same petitioner, challenging the impugned charge memo dated 20.09.2024, issued by the third respondent.

3. Since both the writ petitions arises out of the very same disciplinary proceedings initiated against the petitioner by the respondents, both the writ petitions are disposed of by this common order.

4. The following are the undisputed facts:

a. The petitioner has been charged in the disciplinary proceedings by the respondents on account of the alleged receipt of bribe of Rs.750/- from one Thiru Kannan, Health Inspector, who was seeking a housing loan. The said incident is said to have happened on 09.08.2022.

b. The petitioner was suspended from service for the aforementioned charge on 09.08.2022.

c. Thereafter, based on the orders of the Tamil Nadu Administrative Tribunal, the suspension of the petitioner was revoked and the petitioner was reinstated into service on 12.03.2003.

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d. The criminal case was also registered against the petitioner in respect of the very same charges, which was the subject matter of consideration in the disciplinary proceeding initiated against the petitioner.

e. The petitioner was convicted in the criminal proceedings by the judgment of the Criminal Court dated 20.08.2010.

f. The petitioner preferred a criminal appeal before the Appellate Court aggrieved by the conviction order.

g. On 05.08.2011, the service of the petitioner was terminated by the respondents based on the Criminal Court judgment convicting the petitioner.

h. The petitioner's age of superannuation was on 30.04.2012.

i. In the criminal appeal filed by the petitioner as against the conviction judgment passed against him, the Appellate Court allowed the appeal by setting aside the conviction on 24.10.2018. After the Appellate Court judgment setting aside the conviction passed against the petitioner, the impugned order dated

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19.04.2021, which is the subject matter of W.P.(MD).No.9595 of 2021, came to be issued by the third respondent, suspending the petitioner from service with effect from 05.08.2011.

j. Subsequently, the impugned order dated 20.09.2024 also came to be issued by the third respondent, which is the charge memo issued against the petitioner, which is the subject matter of W.P.(MD).No.24018 of 2024.

5. The learned counsel appearing for the petitioner would submit that both the impugned orders have to be quashed for the following reasons:

a. Since the petitioner has already reached the age of superannuation, the question of suspending the petitioner from service that too after, the Appellate Court had acquitted the petitioner as early as in the year 2018 does not arise. He would also submit that the petitioner reached the age of superannuation on 30.04.2012 and the impugned suspension order has been passed with an inordinate delay only on 19.04.2021.

b. The incident, which was the subject matter of disciplinary proceedings initiated by the respondents against the petitioner was on 09.08.2002, when

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according to the respondents, the petitioner is said to have received bribe amounting to Rs.750/- in respect of the loan sought for by Thiru Kannan, Health Inspector. Hence, according to the learned counsel appearing for the petitioner, both the impugned suspension order dated 19.04.2021 and the impugned charge memo dated 20.09.2024 have been issued / passed with an inordinate delay and therefore, on that ground, both the impugned orders have to be quashed by this Court.

6. On the other hand, the learned Additional Government Pleader appearing for the respondents would reiterate the contents of the counter filed by the respective respondents in W.P.(MD).Nos.24018 of 2024 and 9595 of 2021. He would further submit that only due to the fact that the criminal proceedings attained finality in the year 2018, the respondents did not issue charge memo against the petitioner earlier. He would also submit that the petitioner has received Subsistence Allowance for the suspended period till the date of his retirement pursuant to the directions issued by this Court in the W.M.P.(MD).No.20337 of 2024 in W.P.(MD).No.24018 of 2024. He would further submit that since the petitioner has not been allowed to retire from service, it became necessity for the respondents to issue the impugned suspension order dated 19.04.2021, which is the subject matter of W.P.(MD).No.9595 of 2021.

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7. This Court is of the view that only when an employee is in service, the question of issuance of suspension order will arise. Admittedly, the petitioner reached the age of superannuation on 30.04.2012 itself. However, in the impugned suspension order, which is the subject mater of W.P.(MD).No.9595 of 2021 has been issued only on 19.04.2021. The incident happened which lead to the initiation of the disciplinary proceedings against the petitioner on 09.08.2002. The charge framed against the petitioner in the disciplinary proceedings by the respondents is that the petitioner has accepted the bribe of Rs.750/- in respect of a housing loan availed by Thiru Kannan, Health Inspector, that an incident which happened in the year 2002 and that too when the petitioner has already reached the age of superannuation in the year 2013 itself, the question of suspending the petitioner from service through the order dated 19.04.2021, which is the subject mater of W.P.(MD).No.9595 of 2021 does not arise and the same has been issued by total non application of mind. Since the petitioner has already reached the age of superannuation and since the impugned suspension order has been issued despite the fact that the incident which lead to the initiation of disciplinary proceedings against the petitioner took place on 09.08.2002 and there is an inordinate delay in the issuance of the impugned suspension order, the impugned order dated 19.04.2021 passed by the third respondent in W.P.(MD).No.9595 of 2021 has to be quashed by this Court.

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8. Though the learned Additional Government Pleader appearing for the respondents would submit that the petitioner has not been allowed to retire from service and he has received subsistence allowance till the date of his retirement pursuant to the directions issued by this Court in W.M.P.(MD).No.20337 of 2024 in W.P.(MD).No.24018 of 2024, the said contention cannot be accepted by this Court in view of the fact that the petitioner has already reached the age of superannuation and suspension will arise only in case the petitioner was still in service before reaching the age of superannuation. The inordinate delay is also a factor for setting aside the impugned order dated 19.04.2021 suspending the petitioner from service.

9. For the foregoing reasons, necessarily, the impugned order dated 19.04.2021 passed by the third respondent in W.P.(MD).No.9595 of 2021 has to be quashed by this Court and W.P.(MD).No.9595 of 2021 has to be allowed.

10. Insofar as W.P.(MD).No.24018 of 2024 is concerned, the said writ petition has been filed challenging the impugned charge memo dated 20.09.2024. The incident which resulted in the issuance of the impugned charge memo took place on 09.08.2002. Therefore, the impugned charge memo

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dated 20.09.2024 has been issued beyond the period of 22 years from the date of the alleged incident, which according to the respondents is a misconduct on the part of the petitioner. The petitioner is said to have received the bribe amounting to Rs.750/- from Thiru.Kannan, Health Inspector. Earlier, the petitioner was suspended by the order of the respondents in the year 2002 and the same was revoked by the orders passed by the Tamil Nadu Administrative Tribunal in the year 2003 and the petitioner was also reinstated into service thereafter in the year 2003 itself. The petitioner was working with the respondents from the year 2003 onwards till 05.08.2011 when he was dismissed from service service on account of the fact that he was convicted by the Criminal Court through its judgment dated 20.08.2010. Thereafter, the Criminal Court judgment rendered by the trial Court against the petitioner was reversed by the Appellate Court in the appeal filed by the petitioner through the Appellate Court judgment dated 24.10.2018 by giving benefit of doubt to the petitioner.

11. It is well settled that there is no statutory or legal prohibition for the respondents to issue the charge memo to a delinquent, despite the fact that for the very same set of charges in the disciplinary proceedings, the criminal proceedings are also pending against the very same delinquent for an incident

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that happened in the year 2002, the respondents have chosen to issue the impugned charge memo on 20.09.2024, which is the subject matter of W.P.(MD).No.24018 of 2024, that is after lapse of more than 22 years from the date of the incident. Even the Appellate Court judgment passed in favour of the petitioner with regard to his criminal case wherein the petitioner has been acquitted and the order of the trial Court has been reversed was passed as early as on 24.10.2018 itself. The respondents have also not issued the charge memo to the petitioner in the disciplinary proceedings immediately thereafter, but instead has chosen to issue the impugned charge memo only on 20.09.2024, which is beyond the period of five years from the date when the petitioner was acquitted of the criminal charges as per the judgment rendered by the Appellate Court in the criminal proceedings. The respondents ought to have issued the charge memo within a reasonable period even though no strict time lines have been fixed for issuance of charge memo. It is settled law that charge memo cannot be issued with an inordinate delay.

12. It is also settled law that the pendency of the criminal proceedings in respect of the very same charges in the disciplinary proceedings will not restrict / prohibit the employer from initiating disciplinary proceedings against the delinquent. For an incident that happened in the year 2002, the impugned

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charge memo came to be issued by the respondents only on 20.09.2024 after lapse of more than 22 years, which is an inordinate delay and therefore, as per the settled law, the impugned charge memo has to be quashed by this Court.

13. For the foregoing reasons, both writ petitions will have to be allowed by this Court. Accordingly, the impugned suspension order dated 19.04.2021 passed by the third respondent in W.P.(MD).No.9595 of 2021 is quashed and similarly, the impugned charge memo dated 20.09.2024 passed by the third respondent, which is the subject matter of W.P.(MD).No.24018 of 2024 is also quashed.

14. Accordingly, W.P.(MD).No.9595 of 2021 and W.P.(MD).No.24018 of 2024 stand allowed. No costs Consequently, the connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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ABDUL QUDDHOSE, J.

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