

W.A(MD) No.2111 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 01.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD) No.2111 of 2025
and
C.M.P.(MD)No.12073 of 2025**

- 1.The Deputy Inspector General of Police,
Tirunelveli.
 - 2.The Superintendent of Police,
Kanyakumari District,
Kanyakumari.
 - 3.The Deputy Superintendent of Police,
Nagercoil Sub-Division,
Kanyakumari District. ... Appellants / Respondents
- Vs.
- R.Soundarapandian ... Respondent / Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 01.10.2024 in W.P.(MD)No.13931 of 2023 and W.M.P.(MD)No.11758 & 22630 of 2023 and allow the writ appeal.



WEB COPY



W.A(MD) No.2111 of 2025

For Appellants : Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.K.P.Narayanakumar

JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The department is on appeal assailing the order dated 01.10.2024 passed by the learned single Judge allowing W.P.(MD)No. 13931 of 2023 filed by Soundarapandian / respondent herein. Soundarapandian was working as Inspector of Police. He filed the aforesaid writ petition challenging the charge memo dated 20.04.2023. Delinquency alleged against the writ petitioner is as follows:-

“(i) Reprehensible conduct in having falsely written in his daily diary dated 27.08.2008 as it he was engaged in the duty of identification parade of an accused by name Ramesh concerned in Aralvaimozhy P.S.Cr.No.208/2008 under Sections 302 & 380 of IPC between 13.40 Hrs and 18.45 hrs and 1845 hrs on 27.08.2008 at District Jail, Nagercoil where as actually the identification parade was held at the District Jail, Nagercoil between 15.55 hrs and 16.40 hrs on 27.08.2008.



WEB COPY

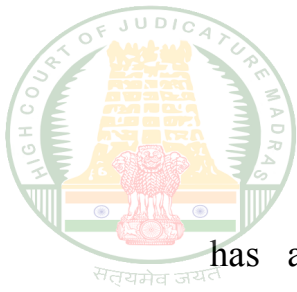


W.A(MD) No.2111 of 2025

(ii) Reprehensible conduct in having falsely written in his daily dairy dated 30.08.2008 as it on 30.08.2008 at 18.00 hrs he visited Madavalayam and checked a History sheeted rowdy by name M.Abdulkhader, S/o.Mhamed Yoosuf and found him present at that time at Madavalayam where as he was actually present at Aralvaimozhy P.S at 18.00 hrs on 30.8.2008.

(iii) Reprehensible conduct in having falsely written in his daily dairy dated 27.08.2008 as it he was engaged in the duty of identification parade of an accused by name Ramesh concerned in Aralvaimozhy P.S Cr.No.208/2008 under Sections 302 & 380 IPC between 13.40 hrs and 18.45 hrs on 27.08.2008 at District Jail, Nagercoil and in having falsely written in his daily dairy dated 3.08.2008 at 18.00 hrs he visited Mathavalayam and checked History sheeted rowdy by name M.Abdul Khader S/o.Mohammed Yoosuf and found him at present at Mathavalayam and thereby violated Tamil Nadu Subordinate Police Officer's Conduct Ruls 1964 Rule 24.”

3. The cause of action dates back to the year 2008. The charge memo has been issued after a gap of 15 years. That is why, the learned single Judge quashed the charge memo on the ground of delay. It is true that some delay in issuing the charge memo is not fatal. When it is coupled with prejudice, certainly it is a ground for quashing the the charge memo. On account of lapse of time, the writ petitioner would be put to prejudice if he is made to face enquiry. The learned single Judge



W.A(MD) No.2111 of 2025

has assigned convincing reasons for quashing the charge memo.

WEB COPY

Paragraph Nos.5 to 8 of the order read as follows:-

“5. On a perusal of the show cause notice, it clearly indicates that it relates to the alleged misconduct on 27.08.2008 and on 30.08.2008. The primary ground on which, the show cause notice is challenged, is that belatedly show cause notice has been issued invoking Rule 3 (a) of Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955. There is no explanation on the part of the Department in their counter affidavit for the belatedly issuing a charge memo. However, he further contended on the side of the respondents that the petitioner was involved in a trap case and he was facing criminal charges in Special SC No.05 of 2009, before the Chief Judicial Magistrate, Kanyakumari at Nagercoil. At the relevant point of time, they received a letter from the Director General of Police, Vigilance and Anti Corruption, to issue show cause notice to the writ petitioner, but not to proceed with the enquiry. Hence, they have not issued show cause notice. However, in view of G.O.(Ms) No.66, Human Resources Management (N) Department, dated 06.07.2022, they have issued the present show cause notice, and this Court is not inclined to accept the said contention.

6. In view of the fact that the letter of the Director General of Police, dated 16.12.2009 relates only to DVAC proceedings and it does not relate to the misconduct alleged in the impugned show cause notice, dated 20.04.2023, there is no legal impediment for the Department to issue the impugned show cause notice even in the year 2008 or 2009, since no criminal proceedings in connection with the said misconduct was pending with any Court.

7. G.O.(Ms) No.66, Human Resources Management (N)



WEB COPY



W.A(MD) No.2111 of 2025

Department, dated 06.07.2022 will be applicable only in the cases where on the same set of facts, the criminal cases are already pending and Department will also initiate disciplinary proceedings. In the present case, the criminal case relates to a trap case and the present show cause notice relates to some other misconduct. It is not in any way connected with the criminal proceedings. Therefore, reliance upon the said Government Order is not of any use to the respondent authorities.

8. Considering the fact that the show cause notice has been issued 15 years after the alleged misconduct, great prejudice is caused to the writ petitioner, in case, if the enquiry proceedings is initiated upon the above said charge memo.”

4. Interference with the said order is not warranted. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
01.08.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi



WEB COPY



W.A(MD) No.2111 of 2025

G.R.SWAMINATHAN, J.

AND

K.RAJASEKAR, J.

rmi

W.A(MD) No.2111 of 2025

01.08.2025