



W.P.(MD).No.16093 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.16093 of 2023

and

W.M.P.(MD).Nos.13481, 13482 & 13483 of 2023

T.Sumathi

... Petitioner

Vs

1. The Additional Chief Secretary,
Revenue and Disaster Management Department,
Secretariat,
Chennai-09.

2. The Additional Chief Secretary,
Commissioner of Revenue Administration,
Chepauk,
Chennai-05.

3. The District Collector,
Collector Officer Campus,
Sivagangai District.

4. The District Collector,
Collector Officer Campus,
Chengalpattu,
Chengalpattu District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to proceedings in R.C.No.3633/2023/A1 dated 26.04.2023 issued by the third respondent and consequent proceedings in R.C.No.7280/2021/A1 dated 28.04.2023 issued by the fourth respondent and to quash the same and consequently directed the respondents to permit the petitioner to retire from service with effect from 30.04.2023 with all consequence and monetary service benefits.

For Petitioner : Mr.A.K.Baskarapandian
for
Mr.NS.Karthikeyan

For Respondent Nos.1 to 4 : Mr.A.Baskaran
Additional Advocate General

ORDER

The instant writ petition has been filed by a Special Thasildar, challenging a charge memo dated 26.04.2023, and the order retaining him in service dated 28.04.2023.

2. The petitioner herein was implicated in a criminal case in Crime No.3 of 2022 on the file of Sivagangai Rural Police Station dated 31.05.2022 for the offences under the Prevention of Corruption Act. The petitioner was



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issued with the impugned charge memo on 26.04.2023. The petitioner was placed under suspension on 27.04.2023. When the petitioner was about to attain superannuation on 30.04.2023, the second impugned order dated 28.04.2023 was passed not permitting the petitioner to retire from service and retaining him in service. The charge memo and the order of retaining the petitioner in service are under challenge in the present writ petition.

3. According to the learned Counsel appearing for the writ petitioner, the charges relate to the fact that the petitioner while he was working as a Special Tahsildar at Karaikudi, without verifying the records he has transferred the patta in the name of individuals when the property was belonging to Karaikudi Municipality. The said patta transfer order has been passed by the petitioner on 30.06.2017. The impugned charge memo has been issued on 26.04.2023.

4. According to the learned Counsel appearing for the writ petitioner, the revenue records stand in the name of one individual namely Sowmiya Narayana Iyengar. Based upon the said revenue records, he had transferred the same in favour of private parties. The fact that the said property was



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gifted to Karaikudi Municipality by way of a registered document was not reflected in the revenue records. Therefore, based upon the entries made in the revenue records he had effected mutation of patta in favour of private parties. He further contends that no proper explanation has been offered by the respondents for issuing a charge memo belatedly that too when he was about to attain superannuation on 30.04.2023.

5. Per contra, the learned Additional Government Pleader appearing for the respondents herein relied upon para.5 of the counter and contended that the Government has received a complaint on 27.05.2021, and thereafter investigation was initiated by the Vigilance and Anti-Corruption Department. On recommendation of the concerned department, prior permission to register a case against the individual was given on 22.11.2021. Based upon which a regular case was registered in Crime No.03/2022.

6. The learned Additional Government Pleader had further contended that the final report of the Vigilance and Anti-Corruption case was received by the office on 14.02.2023, and action was taken on the basis of the said report and charge memo was issued on 26.04.2023. Therefore, there is no



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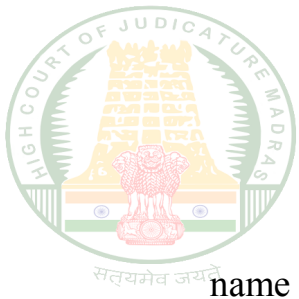
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delay on the part of the respondent in issuing the charge memo. They were awaiting for final report from the Vigilance and Anti-Corruption Department and therefore, the delay has been properly explained by the Department.

7. The learned Additional Government Pleader had further contended that when a criminal case is pending as against the writ petitioner in view of the provisions of the fundamental rules, he has to be placed under suspension and he should not be permitted to retire. Therefore, in view of the specific fundamental rules, the petitioner was placed under suspension and he was retained in service. Hence he prayed for sustaining both the orders passed by the respondents.

8. I have carefully considered the submissions made on either side and perused the materials available on record.

9. A perusal of the charge memo clearly indicates that the allegations as against the petitioner relate to T.S.No.485, Ward No.3, Block No.10, Karaikudi Taluk, Sivagangai District. The charge memo further reveals that the classification of the land as referred in the revenue records was in the



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name of the individual by name SMARM.Arunachalam Chettiar. The charge memo further reveals that Sowmiya Narayana Iyankar had gifted the above said land on 15.05.1950 to Karaikudi Municipality. In view of the said Inam settlement, the land belongs to Karaikudi Municipality and therefore, the petitioner ought not to have mutated the revenue records in favour of third parties. It discloses that the petitioner has passed an order of mutation of revenue records on 30.06.2017. Therefore, it is clear that for the delinquency had happened on 30.06.2017, the impugned charge memo has been issued on 26.04.2023.

10. As per the counter affidavit filed by the respondents even on 27.5.2021, a complaint has been received by the Government, and Vigilance and Anti-Corruption Department was entrusted with the investigation. Therefore, it is clear that the respondent authorities were aware of the above said allegations in the year 2021 itself. The incident having taken place in the year 2017, and the authorities were aware of such an alleged delinquency in the year 2021. Thereafter, a charge memo has been issued after a period of two years on 26.04.2023.



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11. It is the contention of the respondents that they were awaiting report from Vigilance and Anti-Corruption Department. As and when a complaint received by the concerned authorities, it is for them to initiate appropriate departmental action without awaiting for the report of the Vigilance and Anti-Corruption Department.

12. Considering the fact that alleged delinquency was happened in the year 2017, and the revenue records continued to stand in the name of the individuals, this Court is of the considered opinion that the charge memo is liable to be quashed on the ground of delay. As far as the prayer challenging the order of retention in service is concerned as per the F.R.No.56(1)(c), whenever a Government Servant is facing criminal trial, the appointing authority should not permit him to retire and he should be retained in service. Therefore, the order retaining the writ petitioner in service cannot be found fault with. This Court is not inclined to interfere with the said order.



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13. In view of the above said deliberations, the impugned charge memo dated 26.04.2023 is hereby set aside. However, the impugned order dated 28.04.2023 retaining the petitioner in service is sustained.

14. With the above said observations, this writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

29.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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