



W.A.(MD)No.1035 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 01.07.2025

CORAM

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

**W.A.(MD)No.1035 of 2021
and
C.M.P.(MD)Nos.4617 and 8885 of 2021**

The Director of Town Panchayats,
Directorate of Town Panchayats,
Urban Administration Office Complex,
7th and 8th Floor, MRC Nagar,
Chennai.

... Appellant

Vs.

N.Thanasingh

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No. 13992 of 2019 dated 20.11.2019 on the file of this Court.

For Appellant : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Ms.J.Gayathri



WEB COPY



W.A.(MD)No.1035 of 2021

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The department is on appeal challenging the order of the learned Single Judge quashing the charge memo issued against the writ petitioner.

2.The writ petitioner was working as Executive Officer, Vilavoor Town Panchayat, Kanyakumari District during 1999 – 2001. In respect of the said period, charge memo was issued against the writ petitioner on 06.05.2019. The charges read as follows:-

“Charge No.1

You, Thiru.N.Thanasingh, while working as Executive Officer, Vilavoor Town Panchayat, Nagercoil Zone, Kanniyakumari District between 12.11.1999 to 5.09.2001 (now Executive Officer, Vilathikulam Town Panchayat, Thoothukudi District, Tirunelveli Zone) had not maintained Water Supply Stock Register, Tool and Plants Register, History Sheet for Motors, Contractor Register which were necessary maintained in the Vilavoor Town Panchayat. Further you failed to enter obsolete Motors in the stock Register; failed to enter the



WEB COPY



W.A.(MD)No.1035 of 2021

purchased Motor in the Tool and Plant Register; failed to maintain History Sheet for the installed Motors. Hence thereby you have violated rule 20(1) of Tamil Nadu Government Servant Conduct Rules 1973.

Charge No: 2

Thus you have failed to maintain absolute integrity and devotion to your duty and thereby violated rule 20(2) of Tamil Nadu Government Servant Conduct rule 1973.

Challenging the same, the writ petitioner filed W.P.(MD)No.13992 of 2019. The learned Single Judge vide order dated 20.11.2019 quashed the charge memo and allowed the writ petition. Aggrieved by the same, this writ appeal has been filed.

3.The learned Additional Advocate General for the appellant reiterated all the contentions set out in the grounds of appeal. Relying on the decision of the Hon'ble Supreme Court reported in **(2012) 11 SCC 565 (Secretary, Ministry of Defence Vs. Prabhash Chandra Mirdha)**, the learned Additional Advocate General contended that the department came to be know about the misconduct committed by the writ petitioner only in the year 2018. A criminal case was registered against the writ

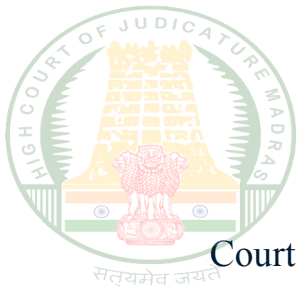


W.A.(MD)No.1035 of 2021

petitioner. Immediately thereafter the charge memo has been issued.

According to him, the delay in issuing the charge memo cannot be a ground for quashing the charge memo when the disciplinary authority is able to offer a convincing explanation.

4.No doubt, the proposition canvassed by the learned Additional Advocate General is beyond cavil. Considering the nature of the charge, the writ petitioner would be gravely prejudiced and handicapped in defending himself. When the cause of action dates to back to the years 1999 – 2001, the writ petitioner cannot effectively defend himself when he is called upon to face the departmental proceedings some two decades later. All the relevant records would have gone missing. The witnesses may not be available. Even if witnesses are available, their memory would have failed. It is also seen that the vigilance enquiry pertained to the malpractice allegedly committed by the writ petitioner. Whereas, the charge on hand pertains only to maintenance of certain registers. Therefore, we are not satisfied that there is no delay on the part of the department. We are equally satisfied that the writ petitioner would be prejudiced, if he is asked to face the enquiry on this charge. The Writ



W.A.(MD)No.1035 of 2021

Court will not quash a charge memo on the ground of delay if there is explanation for the delay and the delay does not prejudice the delinquent.

In this case, the delay in issuing the charge memo is grossly belated. The explanation given by the department is not convincing. We have also recorded our finding that the delinquent would be acutely prejudiced. Looked at from any angle, the order of the learned Single Judge does not call for interference. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed

(G.R.S. J.) & (K.R.S. J.)
01.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

The Director of Town Panchayats,
Directorate of Town Panchayats,
Urban Administration Office Complex,
7th and 8th Floor, MRC Nagar,
Chennai.



WEB COPY



W.A.(MD)No.1035 of 2021

G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

ias

W.A.(MD)No.1035 of 2021

01.07.2025
(1/2)