

W.P.(MD).No.22117 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.22117 of 2016

and

W.M.P.(MD)Nos.15831 to 15833 of 2016

G.Dhamodharan

... Petitioner

Vs.

1.The Director of Public Health and
Preventive Medicine,
Chennai-6.

2.The Deputy Director,
Public Health Services,
Dindigul, Dindigul District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records on the files of the 2nd respondent pertaining to its charge memo bearing Na.Ka.No.2392/A1/2011, dated 23.01.2012 and the final order bearing R.No. 06966/DA/S1/12, dated 19.09.2016 and to quash the same and consequently, to direct the respondent to disburse the pensionary benefits to the petitioner with 18% interest within a time frame that may be stipulated by this Court.

For Petitioner

: Mr.S.C.Herold Singh

For Respondents

: Mr.A.Kannan

Additional Government Pleader



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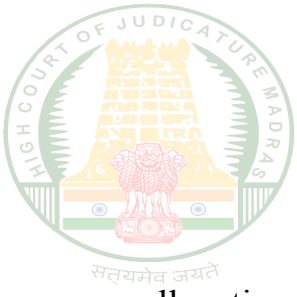
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ORDER

This writ petition is filed for issuance of a Writ of *Certiorarified Mandamus*, to quash the charge memo bearing, dated 23.01.2012 and the final order, dated 19.09.2016 and to direct the respondents to disburse the pensionary benefits to the petitioner with 18% interest within a time frame that may be stipulated by this Court.

2.The petitioner was working in the respondent department. A charge memo was issued as early as 23.01.2012. The petitioner was on the verge of attaining superannuation on 31.01.2012. Therefore, the charge memo is challenged under the ground that prior to one month, on the verge of retirement, no charge memo or disciplinary proceedings can be initiated against the employee. In the present case, one week is available. On this ground, charge memo is liable to be set aside.

3.The second ground raised by the petitioner is that the alleged misappropriation was done in the year 2008 but the charge memo is in the year 2012. Therefore, it is a belated charge memo. Further, the charge memo is for the



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allegation of misappropriation but no criminal case was filed. Therefore, on this ground also, the charge memo is liable to be set aside.

4.The allegation against the petitioner is misappropriation of Rs. 34,506/- which is the amount to be collected from ECS account and to be deposited in the respective employees' accounts. He withdrew from the ECS account but he failed to deposit it in the respective accounts. But the contention of the petitioner is that the said amount is deposited to the respective accounts. The same can be proved if the beneficiaries depose before the enquiry. But none of the beneficiaries appeared and deposed to prove that the petitioner failed to deposit.

5. The contention of the respondent is that the petitioner failed to appear before the enquiry. This Court is of the considered opinion even though the petitioner did not appear before the enquiry officer, minimum enquiry should be conducted by the respondents by calling the witnesses and obtaining depositions and the respondents had not called any witness for the enquiry. Therefore, there is violation of principles of natural justice and on this ground also the petitioner is entitled to relief.



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6. It is seen that the respondent based on the preliminary enquiry report has been confirmed charge. On this ground, also the impugned orders are liable to be set aside.

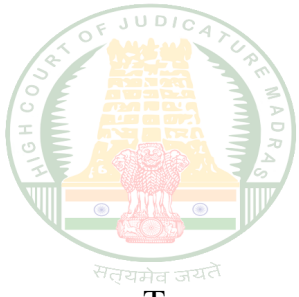
7. The writ petitioner was aged 62 years at the time of filing the writ petition. As on date, the petitioner is 72 years old. Therefore, no fresh enquiry can be conducted at this stage. Hence, the impugned punishment order and the impugned charge memo are set aside. The terminal benefits shall be disbursed within a period of three months from the date of receipt of a copy of this order.

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

24.04.2025

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

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S.SRIMATHY, J.

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