IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04-02-2026

PRONOUNCED ON : 06-02-2026

CORAM

THE HON'BLE MR.JUSTICE T. VINOD KUMAR

WP No. 10705 of 2021

and WMP Nos.11344, 11346 & 22770 of 2021

Mr.H.E.Md.Ibrahim Javeed

..Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep. by The Principal Secretary to Government,
Micro, Small and Medium Enterprises (EII (2)
Department, Secretariat, Chennai 600 009.

2. The Industries commissioner and
Director of Industries and Commerce, Guindy,
Chennai 600 032.

..Respondent(s)

Prayer: Writ Petition is filed under Section 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent issued in G.O.(D) No.18 dated 30/03/2021 and the records relating to the impugned charge memo of the 2nd respondent issued in R.C. No.21951 / EG 3 /2018 dated 31/03/2021 and quash both as non - est in the eye of law.

For Petitioner(s): Mr.K.S.Govinda Prasad

For Respondent(s): Mr.T.Chandrasekaran, SGP

ORDER

Heard learned counsel for the petitioner and learned Special Government Pleader appearing on behalf of the respondents and perused the records.

2. The case of the petitioner is that he had retired from service as Deputy Director of Industrial and Cooperatives (IC) on 31.03.2017, having completed over 25 years of service since his appointment in 1983; that he maintained an unblemished service record throughout his tenure; that upon attaining the age of superannuation and retiring from service on 31.03.2017, his retiral benefits were duly sanctioned; and that he is in receipt of his pension.

3. The petitioner contends that while he was leading a retired life, he was served with a charge memo dated 31.03.2021, exactly on the last date of

completion of four years after his retirement on 31.03.2017, attributing imputations of misconduct and failure to maintain absolute integrity in the discharge of his duties, thereby alleging a violation of Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973.

4. The petitioner further contended that the proposal to take action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is legally untenable, as the proceedings are barred by the limitation of four year period prescribed under Rule 9(2)(b)(ii) of the Tamil Nadu Pension Rules, 1978 (for short 'pension rules').

5.The petitioner further contends that the impugned charge memo was issued pursuant to the sanction accorded by the Government in G.O.(D) No. 18, MSME [EII(2)] Department, dated 30.03.2021, acting on a letter from the Industries Commissioner and Director of Industries and Commerce dated 24.03.2021; that the memo contains charges alleging the receipt of illegal gratification in several forms, thereby accusing the petitioner of abusing his official power, committing a breach of trust, and misusing his official position for personal pecuniary gain, which actions it is alleged make him liable for prosecution under the Tamil Nadu Government Servants' Conduct Rules, 1973.

6. It is the further case of the petitioner that, the respondent, while issuing the impugned charge memo, enclosed the requisite statements namely, i) the statement of charges under Annexure-I; ii) the statement of allegations, namely the imputations of misconduct or misbehaviour in support of the charges, under Annexure-II; and iii) the list of documents relied upon for the charges under Annexure-III.

7. The petitioner also contends that from the details as furnished in Annexure-II, it is alleged that he is the receipt of illegal gratification amounting to ₹61,773/- during the period from 28.06.2013 to 29.08.2017. Based on these allegations, the respondents have invoked Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules to initiate disciplinary action.

8. The petitioner contends that the respondent, while alleging (in Annexure-II) of he having received illegal gratification between 28.06.2013 and 29.08.2017, had invoked Rule 9(2)(b) of the Pension Rules: that the respondent could not have invoked the said rule because the alleged events took place more than four years prior to the initiation of the proceedings under the impugned charge memo.

9.The petitioner further contends that, the respondents in an attempt to bring their action within the four-year limitation period, have alleged the receipt of illegal gratification on 19.05.2017 and 29.08.2017; that the said two dates are admittedly after the petitioner's retirement from service on 31.03.2017; and thus, the alleged acts cannot be attributed to discharge of duties in his official capacity for the respondents to consider the last date of such event as vesting powers to invoke Rule 9(2)(b) of the pension rules.

10. The petitioner contends that once, the relationship of employer and employee has ceased, no charge can be framed including the post-retirement

period; that by excluding the two aforementioned dates viz., 19.05.2017 and 29.08.2017, all other alleged events having taken place between June 2013 and November 2016, the impugned charge memo is clearly beyond the four-year limitation period prescribed under Rule 9(2)(b)(ii) of the Pension Rules; and thus, the impugned proceeding is legally invalid, barred by limitation and cannot be sustained.

11. On behalf of the petitioner, it is further contended that the impugned charge memo, apart having been issued on the final day of expiry of limitation period as prescribed in Pension Rules, also suffers from significant vagueness and non-specific charges; that framing of definite and precise charges is a mandatory prerequisite for initiating action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as mandated by the Government instructions in Letter (Ms) No. 10, Personnel and Administrative Reforms (N) Department, dated 10.01.2005, which directs that charges must be specific to ensure a fair opportunity for the delinquent to explain the alleged lapses. It is thus, contended that for the said reason also the impugned proceeding is liable to be quashed.

12. On behalf of the petitioner, it is further contended that the impugned charge memo has been issued based merely on presumptions, surmises, and conjectures, without any iota of evidence pointing to his involvement; that lack a factual basis and failing to set-out even a prima facie case against him and the entire basis of the charge memo being founded on mere suspicion rather than material evidence, the impugned charge memo is legally unsustainable and is liable to be quashed.

13. In support of the aforesaid contentions, the petitioner placed reliance on the following judgements:

(i)*K.Sadasivam vs. Principal District Judge, Thoothukudi, in W.P.(MD) No. 30511 of 2024,*

(*ii)Union of India & Ors. vs. Gyan Chand Chattar, in Civil Appeal No. 4174 of 2003,*

(iii)Bareilly Electricity Supply Co. Ltd. v. The Workmen and Others, reported at AIR 1972 SC 330,

(iv)Sawai Singh vs. State of Rajasthan, AIR 1986 SC 995 (1986 (3) SCC 454),

(v)Maharana Pratap Singh v. The State of Bihar &

Ors., 2025 SCC Online SC 890.

14. Counter affidavit on behalf of the respondents is filed.

15. The respondents by the counter affidavit contend that the petitioner was initially appointed as a Supervisor of Industrial Cooperatives on 01.08.1983; and that after being promoted through various levels, he eventually served as the Deputy Director of Industries and Commerce and retired from service on 31.03.2017 upon attaining the age of superannuation.

16. The respondents, by their counter-affidavit, contend that the Directorate of Vigilance and Anti-Corruption authorities (DV&AC), in coordination with the District Inspection Cell, Chennai, conducted a surprise check on 01.08.2018 from 18:00 hours to 03.08.2018 till 15:00 hours, at the Anna Auto Transport Drivers Industrial Cooperative Society (Hindustan Petrol Bunk) Ltd., located at No. 242, Royapettah High Road, Chennai-14; that the surprise check was based on credible information regarding the swindling of funds by society staff in connivance with higher officials of the 2nd Respondent's department; and that during the said surprise check, the following grave irregularities were noticed:

(i) Shortage of cash of Rs. 1,23,921/- in the sold fuel amount.

(ii) As per basic chittah note books an amount of Rs. 11,78,439/- was found swindled by the officials and staff of the society.

(iii) Testing process was misused.

(iv) Meter readings were altered in the basic chittah note books.

17.The respondents by the counter-affidavit, further contended that upon the Vigilance and Anti-Corruption authority noting the above irregularities, an inquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, was ordered in respect of the said society; that this inquiry was directed to investigate into the affairs of the society and the specific issues mentioned in the report of the Directorate of Vigilance and Anti-Corruption.

18. The respondents further contended that the Inquiry Officer appointed under Section 81 of the Tamil Nadu Co-operative Societies Act, in his report dated 10.02.2020, stated that the petitioner received illegal gratification in several forms, such as cash, phone recharges, photocopy bills, and fueling of personal vehicles,

amounting to ₹61,773/- during the period from 28.06.2013 to 29.08.2017, thereby causing monetary loss to the society even after his retirement.

19. It is further contended that although the petitioner retired from Government service on 31.03.2017, the disciplinary authorities are empowered to initiate departmental proceedings against him as per the power vested under Rule 9(2)(b)(i) of the Pension Rules; and accordingly, the impugned notice was issued after obtaining the necessary sanction from the Government.

20. On behalf of the respondents, it is also contended that since, the impugned proceeding is only a charge memo, the petitioner ought to have submitted his explanation for due consideration of the disciplinary authority and instead the petitioner rushed to this Court by filing the present writ petition. Thus, the respondents pray that this Court direct the petitioner to submit his explanation to the charge memo to enable the authorities to consider the same in the light of the articles of charge contained therein.

21. In support of the aforesaid submission, reliance is placed on the decision of the Apex Court in the case of ***Union of India and others v. Kunisetty Satyanarayana (2006) 12 SCC 28***, wherein it was held that a writ petition is not ordinarily maintainable against a show-cause notice or a charge memo, as it does not infringe any right of the party and only seeks an explanation.

22. I have taken note of the respective contentions urged.

23. At the outset, it must be observed that no disciplinary proceedings or inquiries was initiated against the petitioner while he was in service in respect of alleged acts until his retirement on 31.03.2017. Furthermore, no disciplinary action / proceedings were pending at the time of petitioner attaining the age of superannuation, allowing the respondents to continue the said proceedings after his retirement.

24. On the other hand upon the petitioner attaining the age of superannuation and retiring from service, and after all retiral benefits were settled,

the impugned charge memo was issued just few days (to be precise 7 days) prior to the expiry of the four-year limitation period prescribed in Pension Rules, conferring power on the authorities to initiate disciplinary action. The proceedings were set in motion by a letter dated 24.03.2021, following which the Government accorded sanction on 30.03.2021 and the charge memo was subsequently prepared and served on the petitioner the very next day, 31.03.2021, which incidentally is the last day of expiry of four year period as per Pension Rules.

25. Since, the respondents have initiated action by issuing charge memo invoking the power conferred under Rule 9(2)(b)(ii) of the Tamil Nadu Pension Rules, 1978, it is necessary to refer to the said Rule, which reads as follows:

> "***Rule 9(2)….***
> ***(b)*** *The Departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment-*
> ***(i)*** *shall not be instituted save with the sanction of the Government;*
> ***(ii)*** *shall not be in respect of <u>any event which took place more than four years before such institution</u>;"*
> (underlining supplied by court).

26. From a reading of the above mentioned rule, it would be clear that, though the Government is conferred with the power to initiate disciplinary action against retired Government employees, such initiation of action / proceeding should be relatable to an 'event' which had taken place not more than four years.

27. Though the respondents seek to justify initiating action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules by invoking Rule 9(2)(b)(i) of the Pension Rules, claiming that action is taken within four years of the petitioner's retirement, firstly, as noted here in above, the Pension Rule uses the word 'event' and not the date of retirement. Secondly, a perusal of Annexure-II of the charge memo, containing the details of alleged illegal gratification received by the petitioner between 28.06.2013 and 29.08.2017, reveals that the alleged last event / incident which had taken place, while the petitioner was in service occurred on 30.11.2016. The other two dates mentioned in the statement, viz., 19.05.2017 and 29.08.2017, are admittedly after his retirement on 31.03.2017. Thus, the alleged last event / incident of petitioner accepting illegal gratification while in service can only be 30.11.2016. Thus, the respondents could have

initiated / instituted disciplinary action if any, only within four years from the said date of 'event', and not beyond.

28. Although the respondents claim that the petitioner's involvement was noticed during an inspection by the Directorate of Vigilance and Anti-Corruption at the Anna Auto Transport Drivers Industrial Cooperative Society Limited (HP Petrol Bunk) between 01.08.2018 and 03.08.2018, leading to an inquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, it is admitted that the petitioner never worked in the said establishment at any given point of time. The respondents in the counter-affidavit further claimed that pursuant to the inspection findings, a Section 81 inquiry was ordered, and the Inquiry Officer, in his report dated 10.02.2020, having stated that the petitioner receiving illegal gratification amounting to ₹61,733/- in various forms between 28.06.2013 and 29.08.2017, causing monetary loss to the society, thereby making him liable to be proceeded against under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. However, it is to be noted that the only basis for the respondents to initiate disciplinary action against the petitioner, is some entries

with pencil are found in ‘chitta’ maintained by the employees of the petrol bunk, but no notice was issued to the petitioner while causing enquiry under Section 81 of the Co-operative Societies Act.

29. Though the respondents allege in the charge memo that the petitioner received illegal gratification while discharging his duties, thereby misusing his official position for personal pecuniary gain and committing a breach of trust and such conduct is 'unbecoming of a Government servant' can only relate to the period when the petitioner was actually in service. Since, the alleged receipt of illegal gratification while in service occurred between 28.06.2013 and 30.11.2016, and the petitioner having retired from service thereafter, any action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, invoked via Rule 9(2)(b) of the Pension Rules, must have been initiated within four years of those specific ‘events’, as the petitioner cannot be considered as a Government employee after 31.03.2021.

30. Since, the four-year limitation period prescribed under the Pension

Rules starts to run from the dates of the alleged incidents/ event while the petitioner is in service (the last being on 30.11.2016), the respondents were required to institute proceedings against the petitioner on or before 29.11.2020. Not only did the respondents failed to take action following the inspection by the Vigilance and Anti-Corruption authorities in 2018, but they also remained silent after the Inquiry Officer, appointed under Section 81 of the Co-operative Societies Act, submitting his report in February 2020. The respondents by their own failure to act on the findings of the Inquiry Officer, allowed the four-year limitation period prescribed under Rule 9(2)(b)(ii) to lapse by November 2020.

31. It is only thereafter the respondents chose to initiate action against the petitioner by seeking Government sanction vide letter dated 24.03.2021. Although the Government accorded sanction on 30.03.2021 vide G.O.(D) No. 18, and the respondent issued charge memo on the following day, these late actions cannot save the proceedings from being barred by the limitation period prescribed under Rule 9(2)(b)(i) of the Pension Rules.

32. Thus, the aforesaid action of the respondent in initiating disciplinary

proceedings at the fag end of the four-year period from the date of retirement of the delinquent only goes to show that the respondents intended only to protect themselves from being hit by the outer period of limitation prescribed under Rule 9(2)(b)(ii) of the Pension Rules.

33. Furthermore, the Article of charges and the statement of allegations forming the basis of the impugned charge memo are inherently vague and non-specific. Additionally, the details provided in Annexure-II regarding the alleged illegal gratification do not even total to the amount specified by the respondent. Such discrepancies and the lack of precise particulars make it impossible for the petitioner to submit an effective explanation, thereby violating the principles of natural justice.

34. The Government, via Letter (Ms.) No. 10, Personnel and Administrative Reforms (N) Department, dated 10.01.2005, had specifically directed that while issuing charges or show-cause notices, authorities must ensure that they are carefully drafted to avoid vagueness. The letter further mandates that no irrelevant or incorrect rules, sections, or acts should be quoted, and that final

orders must be 'speaking orders.' Despite these instructions, which reiterate earlier Government directives issued in the circular dated 11.03.1983, the impugned charge memo fails to comply with the said instructions. Not only the contents are non-specific charges but the allegations levelled against the petitioner also suffer from significant vagueness, making the proceedings legally unsustainable.

35. Though, on behalf of the respondents, placing reliance on the decision of the Apex Court in the case of ***Kunisetty Satyanarayana*** (supra), it is contended that the impugned proceeding is only a charge memo and the petitioner instead of submitting his explanation, has rushed to this Court, and therefore this Court should not interdict the proceedings, it is to be noted that since, the impugned proceeding is hit by the limitation prescribed under the Pension Rules, this Court is of the view that there is no necessity for the petitioner to submit himself to the jurisdiction of the authority who lacked jurisdiction and also in respect of void proceedings.

36. The Hon'ble Division Bench of this Court, ***in W.P.(MD) No. 30511***

of 2024, speaking through the Hon'ble Chief Justice in the case of ***K.Sadasivam vs. Principal District Judge, Thoothukudi***, while dealing with the scope of Rule 9(2)(b) of the Tamil Nadu Pension Rules, has held as follows:

> *"9. A fair and logical reading of the aforesaid Rule reveals that the departmental proceedings, if not instituted while the Government servant was in service – whether before his retirement or during his re-employment, then it shall not be instituted (i) save with the sanction of the Government; and (ii) in respect of any event which tool place more than four years before such institution."*

37. Further, the Hon'ble Supreme Court in a recent case in the case of ***Maharana Pratap Singh v. The State of Bihar & Ors., 2025 SCC Online SC 890,*** by referring to the earlier decision of the Apex Court in ***Surath Chandra Chakrabarti vs. State of West Bengal, (1970)3 SCC 548***, held as under:

> *"35.If there is a flaw from the inception of the disciplinary proceedings, i.e., the charge-sheet is not issued conforming to the relevant rules and the charged officer finds it difficult to meet the charges because it is vague, indefinite, not specific and lacking in material particulars,*

the charge-sheet itself becomes susceptible to vulnerability."

38. The Apex Court, in the case of ***Union of India & Ors. vs. Gyan Chand Chattar (2009) 12 SCC 78***, summarized the essential requirements for conducting a departmental inquiry and observed as follows:

> *"29.In view of the above, law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and principles of natural justice. The charges should be specified, definite and giving details of the incident which formed the basis of charges. No enquiry can be sustained on vague charges. Enquiry has to be conducted fairly, objectively and not subjectively. Finding should not be perverse or unreasonable, nor the same should be based on conjunctures and surmises. There is a distinction in proof and suspicion. Every act or omission on the part of the delinquent cannot be a misconduct. The Authority must record reasons for arriving at the finding of the fact in the context of the statute defining the misconduct."*

39. A conspectus of the various decisions of the Apex Court and Division Bench of this Court, clearly show that any disciplinary action sought to be

initiated must strictly adhere to the statutory provisions and be conducted in accordance with the principles of natural justice.

40. Since, the Pension Rules mandate the initiation of any action within four years from the date of the occurrence of the 'event', and as detailed hereinabove, the last of the alleged 'event' having taken place during the period from 2013 to Nov. 2016, the impugned charge memo as issued by the respondents to the petitioner is clearly hit by the bar of limitation contained under Rule 9(2)(b)(ii) of the Tamil Nadu Pension Rules, 1978.

41. Thus, this Court is of the considered view that the respondents cannot be allowed to proceed further with the impugned charge memo and the petitioner cannot be directed to submit to the jurisdiction of the said authority in light of the clear statutory embargo contained in the Tamil Nadu Pension Rules, 1978. As the proceedings are patently barred by limitation, any further action by the respondent would be a nullity in the eye of the law.

42. In view of the above, the writ petition is allowed, and the impugned charge memo dt. 31.03.2021 is hereby quashed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

06-02-2026.

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The State of Tamil Nadu
Rep. by The Principal Secretary to Government,
Micro, Small and Medium Enterprises (EII (2)
Department, Secretariat, Chennai 600 009.

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T. VINOD KUMAR, J.

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Pre-Delivery Order in

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