



W.P(MD)No.25795 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.25795 of 2024 and
WMP(MD) Nos.21855, 21856, 21859,21863 & 25339 of 2024

P.Kamalanathan

... Petitioner

Vs

1.The Director General of Prisons and Correctional Services,
Trichy Range,
Trichy.

2.The Superintendent of Prisons,
Broastal School and District Prisons,
Pudukottai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the charge memo issued by 2nd respondent in No.9094/KiSi.2/2023 dated 02.05.2023 and to quash the same.

For Petitioner : Mr.T.S.Mohamed Mohideen
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader



W.P(MD)No.25795 of 2024

WEB COPY

ORDER

The petitioner, who is working as a Grade I warder at Vellore was placed under suspension and he has also been issued with a charge memo by the order impugned in this writ petition that he, along with his wife, have involved in a criminal case in Crime No.815 of 2022. The petitioner has challenged the charge memo on the ground that the charge memo is nothing but a verbatim of the First Information report, which is still under the investigation.

2.When this writ petition is taken up for hearing today, the learned Additional Government Pleader appearing for the respondents submits that the Inspector of Police, Tamil University Police station has registered a criminal case as against this petitioner and his wife in Crime No.815 of 2022, for the offence under Section 506(i) IPC r/w Section 4 of Tamil Nadu Prohibition of charging exorbitant interest Act, on 25.11.2022 and a final report has been filed before the Judicial Magistrate Court No.II, Thanjavur and the same was taken on file in CC No. 1440 of 2025 on 04.09.2025.



W.P(MD)No.25795 of 2024

WEB COPY

3.The learned counsel for the petitioner by relying on the following judgments

- i. M.Paul Anthony Vs Bharat Gold Mines Ltd., and another, reported in 1999 (3) SCC 679.
- ii. SBI and others Vs. R.B.Sharma, reported in 2004 (7) SCC 27.
- iii. IOB Vs. P.Ganesan and Others reported in 2008 (1) SCC 650
- iv. P.Ravikumar Vs. the Deputy General Manager, reported in 2011 SCC online Mad 2179

submits that the departmental proceedings needs to be kept pending till the disposal of the criminal trial.

4.This Court considered the rival submissions made and also perused the materials placed on record.



W.P(MD)No.25795 of 2024

WEB COPY

5. Pendency of a criminal case is not a bar for withholding the disciplinary proceedings. This Court, by considering various judgements of the Honourable Supreme Court and the Division Bench of this Court has passed an order in WP(MD) No. 13621 of 2022, dated 06.01.2025 and the relevant paragraphs are extracted as under:-

5. Insofar as the petitioner's plea is concerned, there is no legal bar for simultaneous conduct of departmental and criminal proceedings. The Hon'ble Supreme Court has, time and again, reiterated that there is no bar in law for initiation of simultaneous departmental proceedings on the same set of allegations as in the criminal case and also permitted the disciplinary authorities to conclude the departmental proceedings without waiting for the outcome of the criminal case, inasmuch as a criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas charges in the departmental proceedings should be established on the basis of preponderance of probabilities.

*6. The observations made by a Full Bench of the Hon'ble Supreme Court in **Ajit Kumar Nag v. General Manager, Indian Oil Corporation Ltd** [2005 (7) SCC 764], are extracted as under:-*

“11. ... In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with Rules and Regulations in



W.P(MD)No.25795 of 2024

force. The two proceedings criminal and departmental - are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with service Rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt', he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of 'preponderance of probability'

7. In Re State of Rajasthan & Others v. Phool Singh [2022 SCC OnLine SC 1140], the Hon'ble Supreme Court has held as under:-

“10.

.. A departmental proceeding is different from a criminal proceeding. The fundamental difference between the two is that whereas in a departmental proceeding a delinquent employee can be held guilty on the basis of “preponderance of probabilities”, in a criminal court the prosecution has to prove its case “beyond reasonable doubt”. In short, the difference between the two proceedings would lie in the nature of evidence and the degree of



W.P(MD)No.25795 of 2024

its scrutiny. The two forums therefore run at different levels. For this reason, this Court has consistently held that merely because a person has been acquitted in a criminal trial, he cannot be ipso facto reinstated in service.”

8. *Following the principles laid down by the Hon'ble Supreme Court, a Division Bench of this Court in **Additional Director General of Police and Another v. O.Baskaran [WA.No.1988 of 2021, decided on 30.09.2021]** has issued certain directions on the principles to be followed in the simultaneous disciplinary proceedings to be initiated as against the Government servants on the same set of charges in the criminal cases, as follows:-*

“11. Finding that no prima facie case has been made out by the Appellants herein, we are not inclined to interfere with the orders of the learned Single Judge. Accordingly, this Writ Appeal is disposed of with the following directions:

i) The Appellants are directed to revoke the suspension order and reinstate the Writ Petitioner on or before the end of November, 2021;

ii) It is open to the Appellants to initiate departmental proceedings against the Writ Petitioner and if any commenced or initiated, the same shall be proceeded with, de hors pendency of the criminal case, as both criminal proceedings as well as departmental proceedings can go on simultaneously, as there is no hindrance on the part of the employer to proceed with the departmental proceedings, if the Criminal Proceedings are not initiated or concluded within one year from the date of FIR (not from the date of



W.P(MD)No.25795 of 2024

filing of Charge Sheet, as filing of Charge Sheet in the Criminal Court is a herculean task and will take years together), in view of the fact that the criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas charges in the departmental proceedings should be established on the basis of preponderance of probabilities. In the event of the delinquent employees, including the Writ Petitioner, having less than one year of service and in the absence of pension rules to proceed against them, after retirement, then there is no need for strict observance of the waiting period;

iii) The Disciplinary Authority shall proceed with the enquiry on a day to-day basis without adjourning the matter beyond seven working days at any point of time and bring the issue to a logical conclusion at the earliest, but not later than six months from today. The petitioner shall co-operate for early attainment of the proceedings;

iv) If the Writ Petitioner refuses to participate in the enquiry, ex parte enquiry may be conducted, final decision in the ex-parte may be taken and communicated to the Writ Petitioner. This will enable the Writ Petitioner to participate in the enquiry without protracting it. Till final orders are passed by the disciplinary authorities, the Writ Petitioner cannot approach the Court further to stall the proceedings;

v) For the suspension period, the subsistence allowance needs to be paid in terms of the Rules, provided the employee does not leave the Head Quarters and it is open to the employer to verify the residence of the employee that has been furnished by him/her as to whether the employee is residing there or not. In case the employee is not found therein, then the subsistence allowance can be stopped, as the employee should not leave the Head Quarters



W.P(MD)No.25795 of 2024

without prior permission;

vi) The enquiry should not be stalled, citing the reason of non availability of documents. If the documents are taken by the DVAC or other Departments or filed before the Court, certified copies of those documents can be obtained by the Department and in the event of any such request made, other Departments are bound to furnish the same, in order to enable the concerned Department to proceed with the enquiry against the delinquent and DVAC or other Departments should not be a party for nonconduct of enquiry;

vii) The documents, which are going to be relied upon by the Department in the domestic enquiry, will have to be furnished to the Writ Petitioner. Wherever it is not possible and documents are voluminous, the Writ Petitioner will be permitted to take notes of those documents for the purpose of effective defence in the enquiry;

viii) In case Departmental action is not taken against the delinquent in time, the Officer, who is responsible for non-initiation of Departmental Proceedings should be taken to task, on the presumption that the said Officer is in collusion with the delinquent employee and adverse remarks against the Officer, who is responsible to take action shall be entered in the Service Register and he/she should not be allowed to be promoted further and reversion to the post in which that person / Officer was appointed shall be the minimum punishment to him/her;

ix) The Appellants / Officials in other Departments, while taking a decision, shall bear in mind the order of this Court dated 06.01.2021 made in W.P.No.13 of 2021 in entirety.”



W.P(MD)No.25795 of 2024

9. *Considering the directions issued by the Division Bench of this Court in **O.Baskaran's** case (supra), the Government has issued comprehensive guidelines with regard to the simultaneous departmental disciplinary action as against the Government servants for the same set of charges as in the criminal cases connected with the discharge of their official duty, in G.O.Ms.No.66, Human Resource Management Department, dated 06.07.2022. Therefore, this Court is not inclined to entertain this plea raised by the petitioner and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.*

6. The Government has also issued certain guidelines vide Government order in G.O.Ms.No.66, Human Resource Management Department, dated 06.07.2022, on the manner, in which, the disciplinary proceedings has to be conducted pending criminal cases and the same is extracted as under:-

21.If a case involves complicated questions of the fact and law or examination of any witness in the departmental enquiry prior to the examination of the said witness before the Court in the connected criminal case would cause prejudice to the interest of the prosecution case pending in the Court and the disciplinary authority is not in possession of the required materials for the purpose of conducting enquiry, then administrative decision may be taken to keep the



W.P(MD)No.25795 of 2024

departmental proceedings in abeyance, till the disposal of the criminal case. However, the advisability and desirability has to be determined considering the facts of each case by the authority concerned. Therefore, it would be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible.

7. That apart, the Government has issued compendium of instructions in dealing with the disciplinary proceedings in G.O.Ms.No.81, Human Resources Department, dated 04.08.2022 prescribing time limit for finalising the disciplinary proceedings and the same is as under:-

“11. The Government, after careful examination, reiterates the guidelines issued in the Government Order second read above with slight modification as follows:-

(i) The power of ordering suspension should be exercised carefully and with restraint. Before a suspension order is issued, the authority concerned must be clear in mind that it is necessary, Prolonged suspension means that Government pays a Government Servant without extracting any work from him. In view of the above position, the suspension should not be resorted to unless the concerned authority has considered all the relevant



W.P(MD)No.25795 of 2024

factors and recorded his reasoned conclusion that it is in the public interest to place the Government Servant under suspension.

(ii) Where a Government Servant has been suspended on disciplinary proceedings contemplated, such proceedings should be initiated immediately and finalized normally within a period of six months.

(iii) In cases, where a Government Servant has been suspended and the matter has been referred for investigation to the Director of Vigilance and Anti-Corruption for enquiry, the latter should complete the enquiry and send the report to Government through the Vigilance Commission within one year

(iv) In respect of cases referred to under items (ii) and (iii) above, the authority who ordered the suspension or the Director of Vigilance and Anti-Corruption, as the case may be, should, before the expiry of the period of three months, report the matter to the Head of the Department/Government, indicating the progress of the disciplinary action/investigation by the Director of Vigilance and Anti-Corruption, the reasons for non completion of the work and the further time required for completing the disciplinary action / investigation and furnish reasons for continuing the suspension, if continued suspension is felt essential. If the authority



W.P(MD)No.25795 of 2024

which Initiated action in the first instance is the Head of the Department, the report has to be sent to Government.

(v) After the initial report referred to in item (iv) above, reports should be sent to Government at the end of every three months, indicating the further progress, so as to enable the Government to review the suspension and the progress of the case, for such action as may be necessary to ensure expeditious disposal.

(vi) The Head of the Department or the Government as the case may be, will examine the cases with reference to the subject matter of the disciplinary action/investigation in progress and the reported stage of progress and permit the continued suspension beyond three months/six months. Where the Government itself, have ordered suspension, it will examine the case on the same lines and pass similar order.

(vii) The disciplinary authorities should ensure that the delay in processing the case is not due to delaying tactics of the Government Servant. They should ensure that all notices issued to the suspended Government Servant should reach him without any loss of time.

(viii) When the disciplinary authority comes to a conclusion suo-motu or after conclusion of the investigation by the Director of Vigilance and Anti-Corruption, the disciplinary authority shall, while



W.P(MD)No.25795 of 2024

initiating action by issue of charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, as the case may be, examine with reference to the facts established, which form the basis for the charges, whether public interest or the needs for further proceedings will require continued suspension of the Government Servant already under suspension.

(ix) The time limits mentioned above will not be applicable to cases of Government Servants against whom criminal proceedings have been initiated. However, while sanctioning prosecution in such a criminal case, an examination similar to the one mentioned in item (vii) above shall be made by the competent authority

(x) If, on examination of the case under items (vi), (viii) or (ix) above, continued suspension is considered not necessary, the suspension may be revoked in exercise of the powers conferred under Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or under Rule 3(e)(5) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955, as the case may be.

(xi) in cases where the charge in the criminal case involves complicated questions of law and fact and the



W.P(MD)No.25795 of 2024

disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on theon vigilance report and is pending before the court of law for which no reasons are explained explicitly, the authority compellent may take a decision by laking up review of suspension and post the Government Servant in a non-sensitive place in consultation with the appropriate investigating authority / Vigilance Commission case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable. Such revocation of suspension can be made based on the facts of each case and after noticing the reason for the delay in serving the memorandam of charges / charge sheet. The decision of the Hon'ble High Court of Madras P.Kannan case, given in para 5 above, shall be taken into account.”

8.The Honourable Supreme Court time and again has reiterated that interference with the charge memo or charge sheet has to be deprecated, unless or otherwise the circumstances so warrant. In view of the settled position of law, this Court is not inclined to interfere with the impugned charge memo.



W.P(MD)No.25795 of 2024

WEB COPY

9. Accordingly, this writ petition is dismissed with a direction to the respondents to conclude the disciplinary proceedings as directed in G.O.Ms.No.81, Human Resources Department, dated 04.08.2022 and G.O.Ms.No.66, Human Resource Management Department, dated 06.07.2022, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed.

22.01.2026

NCC: Yes/No
Index: Yes/No
vrn

To

1. The Director General of Prisons and Correctional Services,
Trichy Range,
Trichy.
2. The Superintendent of Prisons,
Broastal School and District Prisons,
Pudukottai.



WEB COPY



W.P(MD)No.25795 of 2024

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.25795 of 2024 and
WMP(MD) Nos.21855, 21856, 21859,21863 & 25339 of 2024

22.01.2026