

WP(MD). No.30511 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 14.10.2025

CORAM

THE HON'BLE MR.MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HON'BLE MS. JUSTICE R.POORNIMA

W.P.(MD)No.30511 of 2024

and W.M.P.(MD)No.25634 of 2024

K.Sadhasivam

... Petitioner

Vs

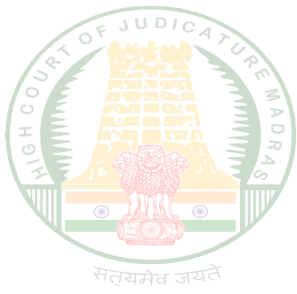
The Principal District Judge,
Thoothukudi District,
Thoothukudi.

... Respondent

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned charge memo issued by the respondent in Departmental Enquiry No.3/2024, dated 21.08.2024, quash the same and consequently direct the respondent to send the pension proposal of the petitioner, who superannuated / retired from the service on 31.05.2023, within the time frame fixed by this Court.

For Petitioner : Mr.RV.Rajkumar

For Respondent : Mr.D.Venkatesh,
Standing Counsel



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ORDER

(Order of the Court was made by the Hon'ble the Chief Justice)

By this petition under Article 226 of the Constitution of India, the petitioner has assailed the correctness, legality and validity of the charge sheet issued on 21.08.2024, qua an allegation of commission of misconduct by the petitioner.

2. The charge against the petitioner is that while the petitioner was in service, he purchased two cents of land on 06.07.2000 without prior permission and thereby committed misconduct. Issuance of charge sheet gave the petitioner an immediate cause of action to approach this Court through this petition.

3. Learned counsel for the petitioner, assailing correctness and validity of the charge sheet has made three-fold submissions.

3.1. The first submission is that, as the petitioner had retired upon attaining the age of superannuation on 31.05.2023, no



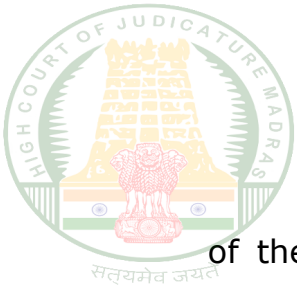
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departmental enquiry could be initiated against him, except in accordance with the provisions contained in Rule 9 of the Tamil Nadu Pension Rules, 1978 (hereinafter referred to as "the Rules, 1978").

3.2. The second submission of the learned counsel for the petitioner is that charge sheet was issued without due compliance of the mandatory conditions incorporated in Rule 9(2) (b) of the Rules, 1978.

3.3. Thirdly, it is submitted that no case of misconduct is made out, in view of the provisions contained in the Rules, which only require information to be given and no permission is required.

4.1. Per contra, learned counsel appearing for the respondent would submit that, even though a formal charge sheet came to be issued only on 21.08.2024, complaint was received much before the date on which the petitioner had attained the age of superannuation and various in-house enquiries were going on at the level of the High Court. Those preliminary enquiry proceedings also constitute departmental proceedings for the purpose of the Rules, 1978. Therefore, the petitioner's contention that charge sheet could not be issued without fulfilling the terms and conditions



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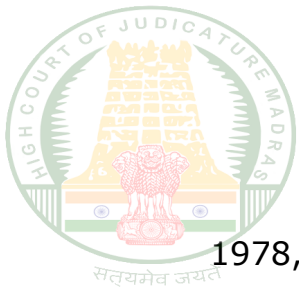
of the provisions contained in Rule 9(2)(b) of the Rules, 1978 is liable to be rejected.

4.2. Secondly, the learned counsel for the respondent further argued that, in the present case, the petitioner was under to the control of the High Court as provided under Article 235 of the Constitution of India and, therefore, no permission from the State Government was necessary and once permission was granted by the High Court, enquiry could continue and charge sheet could be issued.

4.3. Thirdly, he would submit that, on receipt of the complaint, enquiry was immediately and promptly initiated and, therefore, it cannot be said that it was a case where bar of four years for institution of the proceedings as stated in Rule 9(2)(b) would come in the way.

4.4. Learned counsel for the respondent further contended that the allegation contained in the charge sheet, on the face of it, makes out the misconduct and, therefore, no intervention is warranted.

5. After hearing learned counsel for the parties and going through the provisions contained in Rule 9(2)(b) of the Rules,

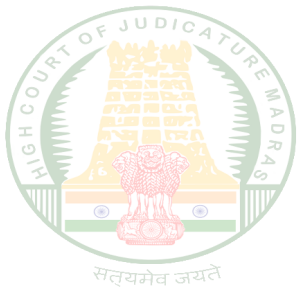


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1978, we are of the view that this petition deserves to be allowed for the reasons stated infra.

6. As to when enquiry is deemed to have commenced, does not require much analysis in view of specific provisions contained in Rule 9 of Rules, 1978 itself. Rule 9(6)(b) of Rules, 1978, clearly provides that for the purpose of this Rule, departmental proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the Government servant or pensioner or if the Government servant has been placed under suspension from an earlier date, on such date.

7. If we apply the aforesaid provisions to the facts of the case, we find that the statement of charges were issued to the petitioner only on 21.08.2024 and not before that. Whatever enquiry was being conducted earlier was in the nature of preliminary enquiry, which does not satisfy the legal requirement of the Rules, 1957 to hold that the departmental proceedings are deemed to have commenced prior to the date of issuance of statement of charges. Therefore, on this count, the submission of learned counsel for the petitioner deserves to be accepted.



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8. It is not in dispute that, even after retirement, departmental proceedings could be initiated against a retired Government servant/pensioner. However, the law mandates certain preconditions to be fulfilled before issuance of charge sheet, which are engrafted in the provisions contained in Rule 9(2)(b) of the Rules, 1978. Following are the preconditions, which are required to be complied with:

"9. Right of competent authority to withhold or withdraw pension:

(1)....

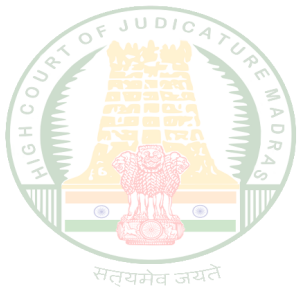
(2)(a)....

(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 (in respect of pensioners who belonged to State Service)

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

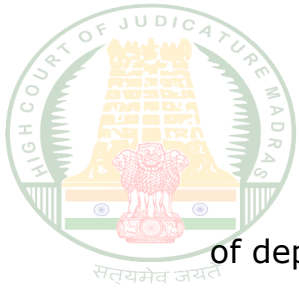


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9. A fair and logical reading of the aforesaid Rule reveals that the departmental proceedings, if not instituted while the Government servant was in service – whether before his retirement or during his re-employment, then it shall not be instituted (i) save with the sanction of the Government; and (ii) in respect of any event which took place more than four years before such institution. It also incorporates the condition that it shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.

10. Learned counsel for the respondent, though laid stress on his submission that since the administrative control is in the hands of the High Court in view of the special provisions contained in Article 235 of the Constitution of India, the requirement of seeking sanction from the State Government will not arise, we are not inclined to go into that question, because, in any case, the other condition that the departmental proceedings shall not be in respect of any event which took place more than four years before such institution comes in the way. This is an embargo on initiation



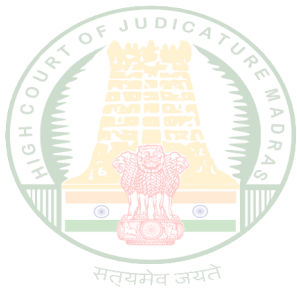
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of departmental enquiry.

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11. It is apparently clear from the statement of charges that the allegation against the petitioner is that he purchased two cents of land way back on 06.07.2000. The petitioner retired on 31.05.2023. Charge sheet was issued on 21.08.2024. The misconduct alleged is of the year 2000, ie., almost 24 years before the date of issuance of the charge sheet/statement of charges. Therefore, it cannot be said that the charge sheet pertains to an event which had taken place within a period of four years preceding the date of institution. The embargo that the departmental proceedings shall not be initiated in respect of any event which took place more than four years before such institution of charge sheet hits at the root of the contention of learned counsel for the respondent.

12. Though learned counsel for the petitioner also sought to raise an issue that the charges contained in the charge sheet are not made out, in view of the findings recorded above, the other issues pale into insignificance.



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13. As an upshot of our above discussion, we hold that the issuance of charge sheet dated 21.08.2024 is against the provisions of the Rules, 1978 applicable in the case and is, therefore, unsustainable.

14. In the result, the petition is allowed and the impugned charge sheet is quashed. However, there shall be no order as to costs. Consequently, W.M.P.(MD)No.25634 of 2024 is also closed.

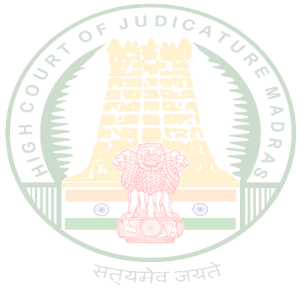
(MANINDRA MOHAN SHRIVASTAVA, CJ.) (R.POORNIMA, J.)

14.10.2025

NCC : Yes/No
Index : Yes/No
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To

The Principal District Judge,
Thoothukudi District,
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THE HON'BLE CHIEF JUSTICE
AND
R.POORNIMA, J.

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