

**Central Administrative Tribunal  
Madras Bench**

**OA/310/01284/2017 a/w OA/310/01764/2017 & OA/310/00030/2018**

**Dated the 26<sup>th</sup> day of November Two Thousand Nineteen**

**P R E S E N T**

**Hon'ble Mr. P.Madhavan, Member(J)  
&  
Hon'ble Mr.T.Jacob, Member(A)**

**OA 1284/2017**

D.Selvaraj,  
S/o V.D.Dhananjayan,  
No.30, Arvindhar Vilas,  
B-Lane, V.V.P.Nagar,  
Thattanchavady,  
Puducherry. .. Applicant  
By Advocate **M/s.Giridhar & Sai**

**Vs.**

1. Union of India, rep by the  
Chief Secretary to Government,  
Government of Puducherry,  
Chief Secretariat,  
Puducherry.
2. The Deputy Secretary to Government (Estt.),  
Government of Puducherry,  
Chief Secretariat,  
Puducherry.
3. The Executive Engineer,  
Public Health Division,  
Public Works Department,  
Government of Puducherry,  
Puducherry.
4. The Deputy Director (Pension),  
Directorate of Accounts & Treasuries,  
Government of Puducherry,  
Puducherry. .. Respondents

By Advocate **Mr.R.Syed Mustafa**

**OA 1764/2017**

T.Venkatesan,  
S/o D.Thirumurthy,  
No.17, 1<sup>st</sup> Cross,  
Krishna Nagar,  
Puducherry 605 008.

.. Applicant

By Advocate **M/s.Menon, Karthik, Mukundan & Neelakandan**

**Vs.**

1. Union of India,  
Through the Union Territory of  
Puducherry, rep. by its  
Chief Secretary,  
Chief Secretariat,  
Puducherry.
2. Deputy Secretary to Government (Estt.),  
Chief Secretariat,  
Puducherry.
3. Under Secretary to Government,  
Inquiring Authority,  
Departmental Inquiry,  
Chief Secretariat,  
Puducherry.

.. Respondents

By Advocate **Mr.R.Syed Mustafa,**

**OA 30/2018**

R.Narayanasamy,  
S/o Ramu,  
No.56, Bharathi Street,  
Ellaipillaichavady,  
Puducherry 605 005.

.. Applicant

By Advocate **M/s.Menon, Karthik, Mukundan & Neelakandan**

**Vs.**

1. Union of India, through the  
Union Territory of  
Puducherry, rep. by its  
Chief Secretary,  
Chief Secretariat,  
Puducherry.

2. Deputy Secretary to Government (Estt.),  
Chief Secretariat,  
Puducherry.
  3. Under Secretary to Government,  
Inquiring Authority,  
Departmental Inquiry,  
Chief Secretariat,  
Puducherry.
  4. The Director,  
Local Administration Department,  
Government of Puducherry,  
Puducherry.
- .. Respondents

**ORDER**

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief:-

OA 1284/2017:

“to call for records relating to chargememo dated 27.4.2012 issued by the 2<sup>nd</sup> respondent and quash the same in so far as the applicant is concerned;

to direct the respondents to pay the applicant all retiral benefits due to him including gratuity and commuted value of pension, with interest on the total sum due @ 12% p.a. w.e.f. 30.4.14 (being the date of superannuation) till date of payment within a time limit stipulated by this Tribunal and thus render justice;

to award costs, and pass such further and other orders as may be deemed and proper and thus render justice.”

OA :1764/2017:

“To quash the charge memorandum No.3108/CS/E1/2011, dt. January 2012 issued by 2<sup>nd</sup> respondent and pass such further or other orders as may be deemed fit and proper.”

OA :30/2018:

“To quash the Charge Memorandum No.3108/CS/(Estt.)/E1/2011 dt. April 2012 issued by the respondent and pass such further or other orders as may be deemed fit and proper.”

2. As the issue involved in all these applications is identical and the relief sought for also is similar, these applications have been heard together and are being disposed off by this common order.

3. The applicant in OA 1284/17 has retired from service as Junior Accounts Officer on 30.4.14. The applicant in OA 1764/17 UDC is working as UDC in the Office of the Deputy Director (IEC), Health Department, Government of Puducherry. The applicant in OA 30/18 retired on superannuation on 31.10.2014 while working as Assistant in the Local Administration Department, Government of Puducherry. The grievance of the applicants is that the respondents in these cases had issued a Charge Memo dt. 27.4.12, January 2012 and April 2012 respectively, alleging irregularities committed in the issue of counter signature permits to goods vehicles registered in Tamil Nadu during the period August 1999 to February 2001 and December 1996 to March 1997 respectively. They immediately filed their reply on 28.1.04, 08.6.12 and 14.5.12 respectively to the charge memo denying the allegations and sought for dropping charges as the applicants in OA 1284/17 and OA 30/18 were retiring. But there was no response from the respondents. On 28.10.14 an Inquiry Officer was appointed to conduct the enquiry. There was no progress for inquiry and on 04.3.15 another IO was appointed. But since no documents were available, applicant sought for copies of the documents shown in Article III. But since documents were not available, it was not furnished. Thereafter, IO decided to return the case file on 20.4.15. But the proceedings were not closed. Thereupon the applicant filed OA 1580/15 before this Bench seeking a direction to grant his retirement benefits etc. This Tribunal directed the respondents to consider the representation and pass a speaking order. But nothing happened even thereafter. On 25.2.16, the respondents issued a notice to appear before IO on 15.3.16. But no progress took place, since the

IO appointed retired on 29.2.16.

4. Till date no enquiry was conducted and no progress was made after the issue of Charge Memo in the year 2012.

5. The respondents filed a common reply stating that the Disciplinary Authority (DA) Lt. Governor had ordered for dropping the proceedings and releasing all retiral benefits considering the long delay and there is no financial loss caused to the Puducherry Government. But the Government of Puducherry, the then Chief Minister had a different view and the order of the Lt. Governor was not implemented. It was contended that since some of the applicants had retired, the competent authority is the President and the Government of Puducherry had addressed the matter to Ministry of Home Affairs and it is still pending there.

6. In view of the above fact that all the applicants have filed for similar relief and the facts are also similar, for the sake of convenience the OA 1284/2017 is taken as leading case.

7. The counsel for the applicant would content that, the Charge Memos itself was issued after a lapse of more than 11 years. The alleged incident is of the year 1999-2001. No original document is available with the respondents. Though Charge Memo was served in the year 2012, no progress was made till date. The DA, the Lt. Governor had taken a decision to drop the proceedings. He invited our attention to the letter of DOPT No.13/6/83 Vig III dt. 28.2.84 wherein it was clarified that there is no need to report to the President if the proceedings is dropped by DA.

8. The other argument put forward is that, the undue delay in completing the

disciplinary proceedings had seriously prejudiced the applicant herein. He is not granted his retiral benefits in full. He mainly relies on the decisions of the Hon'ble Apex Court in *State of A.P. v. N.Radhakrishnan [(1998) 4 SCC 154]* and *P.V.Mahadevan v. MD, T.N.Housing Board [(2005) 6 SCC 636]* in support of his contention.

9. We have heard both the counsels and perused the pleadings. It seems that the disciplinary proceedings initiated against the applicants in all these OAs took place in between August 1999 and February 2001. The Charge Memos was issued after a lapse of about 11 years. There is no explanation offered for this delay by the respondents. The Charge Memos in all these cases were issued in the year 2012. The respondents did not care to appoint an IO till 28.10.14. Thereafter also, owing to various factors like retirement, transfer etc. IO's were changed. The IO had once returned the file as none of the original documents were available. Even after filing these OAs, the respondents could not complete the proceedings. Aggrieved by the delay, some of the applicants filed OAs 1590/14 and 1580/15, and this Tribunal had directed the respondents to consider the representation of the applicants within a specified time limit. The respondents failed to pass an order in time. As per the common reply filed by the respondents, the DA i.e. Lt. Governor had taken a decision to drop the proceedings and ordered to release the pensionary benefits considering the inordinate delay occurred. But this order was also not acted upon by the Puducherry Government and the matter was submitted to the M/o Home Affairs contending that

only the President can take a decision as the applicant has retired. In this respect the DGP&T by letter No.13/6/83-Vig.III dt. 28.2.84 has clarified that Disciplinary Authority who instituted proceedings can drop them without submitting its findings to the President.

10. The Hon'ble Supreme Court in ***P.V.Mahadevan's*** case cited supra had clearly held that -

*“....The protracted disciplinary proceedings causes prejudice to the employee and it should be avoided not only in the interest of the government employee but in public interest and also in the interest of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and put an end to the enquiry....”*

11. Here also the enquiry has been protracted and even now it stands where it started. It is high time to draw the curtain and put an end to the enquiry initiated in 2012. The delayed initiation of charge after 11 years and non-completion of enquiry even after 7 years further has prejudiced the applicants very much. They will not be in a position to defend their case after so much delay.

12. Hence, we find merit in the OAs. The Charge Memos issued against the applicants in OA 1284/17, 1764/17 and 30/18 by the 2<sup>nd</sup> respondent are quashed. The respondents are hereby directed to release all the retiral benefits due to the applicants in OA 1284/17 and 30/18 including gratuity and commuted value of pension etc. w.e.f. the actual date of their retirement with 6% simple interest till date of payment.



13. OAs are disposed off accordingly. No costs.

(T.Jacob)  
Member(A)

(P.Madhavan)  
Member(J)

26.11.2019

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**Annexures referred to by the applicants in OA 1284/17:**

Annexure A1: Relieving order dt. 28.4.14.

Annexure A2: Charge Memo dt. 27.4.12.

Annexure A3: Reply to charge memo dt. 11.5.12.

Annexure A4: representation dt. 28.1.14.

Annexure A5: representation dt. 23.9.14.

Annexure A6: Pension Payment Order dt. 30.1.15.

Annexure A7: Office Order dt. 11.3.13.

Annexure A8: Order appointing IO dt. 28.10.14.

Annexure A9: Notice of hearing issued by IO dt. 23.3.15.

Annexure A10: Representation dt. 15.4.15.

Annexure A11: Consent letter dt. 15.4.15.

Annexure A12: Communication from the R2 to R1 dt. 20.4.15.

Annexure A13: Representation dt. 23.4.15.

Annexure A14: Daily Order Sheet dt. 23.4.15.

Annexure A15: Communication from the IO to R2 dt. 31.8.15.

Annexure A16: Order in OA 1580/15 dt. 19.11.15.

Annexure A17: Representation dt. 21.12.15.

Annexure A18: Hearing notice dt. 25.2.16.

Annexure A19: Communication regarding hearing dt. 03.3.16.

Annexure A20: Order in CA 65/15 dt. 16.11.15.

Annexure A21: Representation dt. 20.2.17.

Annexure A22: RTI reply dt. 16.3.17.

Annexure A23: U.O. Note/Memorandum dt. 13.7.93.

**Annexures with reply statement:**

Annexure R1: I.D.Note dt. 30.5.11.

Annexure R2: Charge Memo dt. 27.4.12.

Annexure R3: Appointment of IA dt. 28.10.14.

Annexure R4: Appointment of PO dt. 28.10.14.

Annexure R5: Appointment of IA dt. 04.3.15.

Annexure R6: Appointment of IA dt. 26.11.15.

Annexure R7: Copy of Note Sheet of Hon'ble Lt.Governor dt. Nil.

Annexure R8: Letter of Hon'ble CM dt. 23.3.17.

Annexure R9: Letter of Chief Secretary dt. 05.6.17.

Annexure R10: Lr. of M/o Home Affairs dt. 27.7.17.

