
(2011) 02 MAD CK 0028

In the Madras High Court

Case No : Writ Petition (MD) No. 12517 of 2009 and M.P. (MD) . No's. 1 and 2
of 2009 and M.P. (MD) . No. 1 of 2010

N.P.K.S. Sheik Abdullah

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 23-02-2011

Acts Referred:

Tamil Nadu Patta Pass book Act, 1983 — Section 10, 11, 12

Citation : (2011) WritLR 298

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : M. Ajmalkhan, for the Appellant; V. Rajasekaran Spl. Govt. Pleader,
for the Respondent

Final Decision : Allowed

Judgement

1. By consent of the learned Counsel on either side, the writ petition is taken up for final disposal.

2. The Petitioner has filed this writ petition challenging the proceedings of the Respondent in Na. Ka. No. 41594/2009/A5, dated 03.11.2009.

3. Brief facts leading to the filing of the writ petition are stated hereunder:

(i) The Petitioner states that presently he works as Huzur Sheristadar (Magisteria) in the cadre of Tahsildars, office of the District Collector, Theni.

Prior to the present post, he worked as Tahsildar (Social Security Scheme) Theni. While so, when he was working as Zonal Deputy Tahsildar,

Theni, there were some allegations against the Petitioner stating that he wrongly issued patta in favour of one R. Jeyabharathi and R. Veerachamy.

(ii) It is the grievance of the Petitioner that for the alleged transfer of patta which was said to have taken place on 19.12.2002, the third

Respondent has chosen to issue a charge memo, after a gap of seven years. Though the Petitioner was eligible to be promoted as Tahsildar, since

there was no disciplinary proceedings pending against him on the crucial date of promotion, viz, January, 2009, due to issuance of the charge

memo, it was thwarted upon by the Respondents. The Petitioner further states in respect of transfer of patta as early as on 21.10.1928, the District

Collector, Madurai, granted the said land in Survey No. 1554, Allinagaram Village classified as Gopalamudram Tank in favour of one

Subbanaidu and two others. The legal heirs of the said Subba Naidu sold the property in favour of one Veerachamy Naidu by a registered sale

deed dated 26.08.1933 and the same was inherited. Since the legal heirs of Veerachamy Naidu, viz., R. Jeyabharathi and R. Veerachamy wanted

patta to be transferred in their name, on the basis of their application, u/s 10 of the Patta Pass book Act, a patta was granted by way of

proceedings dated 19.12.2002. As such, it is not the case of reclassification of the land from Gopalamudram Taluk as private property and issue

of patta for the first time in favour of the holders of title over the said property. If any is aggrieved over the issuance of patta, the same can always be

questioned by way of an appeal provided u/s 11 of the patta passbook act before the Revenue Divisional Officer / Deputy Collector and

thereafter, a revision against the said order can also be filed u/s 12 of the said Act.

(iii) The Petitioner further submits that the Respondents ought to have seen that the transfer of patta was effected by the Petitioner in a capacity of

the Deputy Tahsildar, being a quasi judicial authority, u/s 10 of the Tamil Nadu Patta Passbook Act and as such, the power exercised by the quasi

judicial authority under the statute cannot be questioned by way of initiation of disciplinary proceedings and the same can be set aside in the

manner provided under the Tamil Nadu Patta Passbook Act and as such, the issue of charge memo cannot be sustained in the eye of law. He

further states that the impugned order has been issued after an inordinate delay of seven years by depriving the opportunities of defending the

charge leveled against him. The evidence during the relevant period of time cannot be verified at this length of time. Therefore, finding that there is

no other alternative remedy, the Petitioner has approached this Court for the relief stated earlier.

4. The Respondent has filed a vacate stay petition along with a counter affidavit stating as follows:

(i) When the Petitioner was working as Zonal Deputy Tahsildar, Taluk Office, Theni, it was brought to the notice that the land in Survey No. 1554

of Allinagaram, originally classified and registered as Gopala Samudram Tank in revenue accounts during settlement was subsequently assigned

through a grant of land by the composite Madurai District Collector in his D. Dis. No. 75/1928, dated 21.10.1928 based on a Government order

No. 1752, dated 31.07.1916 in favour of Subbah Naidu and three others on certain conditions. However, these conditions have been found

violated. The tank in question is to irrigate the assignees lands and not to hypothecate the tank to others for consideration.

(ii) In the counter, it is further stated that the erring officials will be charged only at the time of invention of the malpractices committed by them and

there is no time limit for taking action against an erring Government servant. The tank called "Gopala Samudra Kulam" in S. No. 1554 of

Allinagaram village in Theni Taluk was assigned to Subba naidu and three others in the year 1928 to irrigate their ayacut lands and to maintain the

tank properly. But it is learnt from the sale deeds presented to the revenue officials for transfer of right under Transfer of Registry Act that the

assignees have violated the conditions and sold away the tank to others. Therefore, the act of the Petitioner found to be malafide and gross

negligence of legitimate exercise of the power. Apart from this, the Petitioner was also served with the charge memo vide Roc. No.

41594/2009/A5, dated 03.01.2009 for having ordered a transfer of registry as per RTR No. 799/2002, dated 19.12.2002 during his tenure as

the Zonal Deputy Tahsildar, Theni Taluk, Theni. Therefore, this Writ Petition may be liable to be dismissed.

5. On the above background pleadings, I have heard Mr. M. Ajmal Khan, learned Counsel for the Petitioner and Mr. V. Rajasekaran, learned

Special Government Pleader for the Respondents.

6. The first and foremost contention of the learned Counsel for the Petitioner is that for the incident which took place in March 2002, a charge

memo has been issued to the Petitioner on 03.11.2009, after a lapse of seven years and therefore, there is inordinate and unexplained delay in

initiation and conclusion of the proceedings. Therefore, the Petitioner is fully eligible to be included in the panel of Tahsildars fit for promotion to the post of Deputy Collector, since as on the crucial date, i.e.01.01.2009, no charge was pending as against the Petitioner nor he was under any currency of punishment.

7. The learned Counsel for the Petitioner further submits that there is not only inordinate delay in the initiation of disciplinary proceedings, however, further proceedings also did not take off by the Respondents. Added further, being a competent authority, u/s 10 of the Patta Pass Book Act, he had granted patta and therefore, the Petitioner had only discharged his duties. If something is adversed against the order passed by the competent authority, the same can always be challenged in the manner known to law. No plausible explanation has been given by the Respondents in the counter statement for the issuance of charge memo after a gap of seven years.

8. He would further contend that the inordinate delay in initiating disciplinary proceedings is a ground for quashing the charge memo unless the employer satisfactorily explains the delay, as held by the Supreme Court in the case of P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board, and in the case of Ranjeet Singh v. State of Haryana and Ors. reported in 2008 (3) CTC 781.

8a. Learned Counsel for the Petitioner would further contend that because of the delay in initiation of the proceedings, the Petitioner's claim for promotion for the post of the Deputy Collector has not been considered on the ground that charges are pending against him; therefore, his name was not included in the panel for promotion and in no point of time, the Petitioner has contributed any delay in initiation and conclusion of the proceedings.

8b. Learned Counsel for the Petitioner in support of his contentions has relied on the following:

- (i) P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board,
- (ii) Ranjeet Singh v. State of Haryana and Ors. reported in 2008 (3) CTC 781.
- (iii) a Division Bench decision of this Court reported in Union of India (UOI) and Another Vs. Central Administrative Tribunal, Madras Bench and Another, .

3. ... With the above notings the inquiry authority returned the papers to the disciplinary authority for taking an appropriate action in that matter.

Again, there was a long lull during which time no move at all was made by the disciplinary authority. Suddenly, on 26.12.2000, which is almost one year and nine months later, the second charge memo was issued....

4. ... According to the charge memo the alleged misconduct was during the year 1984-85 and twenty long years have since gone by from that and

yet no progress whatsoever made by the Government till the Tribunal passed orders challenged in these writ petitions. In other words, there is total

inaction on the part of the Government from 07.10.1994, the date on which O.A. No. 1689 of 1993 was dismissed by the Tribunal, till

26.02.2000 when the Government issued the second charge memo. Again, we find there is total inaction on the part of the Government from

26.02.2000 till the employee again went before the Tribunal in the year 2002. The delay remains totally unexplained. Therefore, we have no

hesitation at all in concluding that the ground of inordinate delay in proceeding with the departmental enquiry as referred to above by us, would

come in the way of the Government to continue with the enquiry any further. Therefore, on that ground stated by us, the orders in challenge are

sustained and the writ petitions are dismissed.

(iv) another Division Bench decision of this Court reported in A. Obaidhullah Vs. The State of Tamil Nadu and The Tamil Nadu Administrative

Tribunal, .

15. Mr. K.V. Srinivasaraghavan has also brought to our notice a letter (Ms) No. 1118/Per.N.87 dated 22.12.1987 issued by Personnel and

Administrative Reforms Department, Government of Tamil Nadu to all the heads of departments how the disciplinary cases should be disposed of

expeditiously and prescribed a revised time limit for disposal of disciplinary cases. A perusal of the communication shows the time limit has been

prescribed for completion of investigation/enquiry at every stage, including report by the Director of Vigilance and Anti-Corruption, etc. In the

absence of explanation at all on the side of the Government, except change of Government then and there, we are of the view that the Tribunal

ought to have accepted the case of the Petitioner (A. Obaidhullah) and quashed the charge memo on the ground of unexplained inordinate delay.

(v) yet another Division Bench judgment of this Court reported in The Special Commissioner and Commissioner of Commercial Taxes and The

State of Tamil Nadu Vs. N. Sivasamy, Commercial Tax Officer (Under suspension) and The Registrar, Tamil Nadu Administrative Tribunal,

14. ... We have already pointed out that though the applicant filed Original Application No. 6284/97 challenging the charge memo dated 15.07.97,

admittedly, no stay was granted. Despite the above fact that the department had not proceeded with disciplinary proceedings; there is an inordinate

and unexplained delay on the part of the department. According to the applicant, he is 67 years of age as on date and had rendered 38 years of

service in the department. He had undergone sufferings from mental worry, agony, anguish and hardship for all these years. We are satisfied that

there is no need to pursue the charge memo dated 15.07.1997....

(vi) a decision of the Madurai Bench of this Court reported in 2006 (2) CTC 574 in the case of R. Tirupathy and Ors. v. The District Collector,

Madurai District and Ors.

36. Therefore, a combined reading of the communication of the first Respondent to the second Respondent and consequently, the impugned order

passed by the third Respondent based on the communication of the second Respondent shows that the impugned charge memos have been framed

not with an independent mind but with a pre-determined view. It is like a second show cause notice given normally for Government servants after

conducting enquiry and finding the delinquent liable to be punished. In this case, without any enquiry and without giving any opportunity to the

Petitioners the impugned charge memos are issued which are really in the form of a second show cause notice as to why the Petitioners should not

be removed from service....

(vii) yet another decision of the Madurai Bench of this Court reported in 2006 (2) CTC 635 in the case of M. Elangovan v. The Trichy District

Central Co-operative Bank Ltd., Tiruchirappalli and Anr.

12. Likewise in respect of the other case, the charge memo was issued on 19.11.2001 in respect of an incident namely granting of loan which is

stated to have happened in the year 1992 namely nearly ten years before the said period. The second show cause notice in the case was issued on

03.10.2003 proposing the punishment of recovery of amount of Rs. 2,74,303.

The Petitioner has also given his explanation on 22.02.2004. One has to appreciate that the case of Petitioner is that even though, the charge memo has not been specifically challenged, the grievance is that during the verge of retirement, when the proposed punishment itself is only the stoppage of six months' increments and the recovery of amount, if the order has been passed even proposed punishment (and) the period of punishment would have been over and the Petitioner would have been promoted to the next cadre. It is due to the inordinate delay even from the date the second show cause notice was issued the Petitioner has incurred huge loss which cannot be compensated. In fact, the Petitioner has given various incidents to show as to how this chance of the promotion has been obstructed due to the pendency of these proceedings.

16. ... it can safely be concluded that the Petitioner has already suffered enough on account of the disciplinary proceedings and as pointed out and the mental agony and sufferings of the Petitioner due to the protracted disciplinary proceedings would be much more than the proposed punishment itself. For the mistakes committed by the department in inordinate delay in the initiating proceedings and also during the conducting of the proceedings the Petitioner shall not be made to suffer any further....

(viii) a decision of this Court reported in K. Kumaran Vs. The State of Tamil Nadu,

9. In the above said two judgments, the Honourable Supreme Court held that normally the Disciplinary Proceedings should be allowed to take

their course as per the relevant s, but then the delay defeats justice, delay cause prejudice to the charged officer unless it can be shown that he is to

be blamed for the delay or where there is proper explanation for the delay in conducting Disciplinary Proceedings. In this case, admittedly, the

Petitioner has not caused any delay and the inordinate delay of 18 years is not properly explained by the Respondents. It is also necessary to

mention that earlier the Petitioner has filed a Writ Petition in W.P. No. 20261/2004, seeking for a direction to the Respondents therein to pass final

orders, which was disposed of directing the Respondents to pass final orders in the Disciplinary Proceedings on or before 30.09.2004, which was

not complied with.

(ix) a Supreme Court decision reported in 2008 (3) CTC 781 in the case of Ranjeet Singh v. State of Haryana and Ors.

We find that the Trial Court decreed the suit primarily for three reasons: (a) There was an unexplained delay of nine years in issuing the charge-

sheet; (b) There was an unexplained delay of seven years in issuing show cause notice after the enquiry report was submitted in January 1985; (c)

The Appellant was promoted thrice between the dates of alleged misconduct and imposition of punishment (which was about nineteen years). This

Court has repeatedly held that inordinate delay in initiating disciplinary proceedings is a ground for quashing the enquiry unless the employer

satisfactorily explains the delay. For example, where the matter is referred to CBI for investigation and there is delay in getting its report or where

the charge is of misappropriation and the facts leading to misappropriation come to light belatedly, it can be said that the delay is not fatal. But

where the alleged misconduct was known and there was no investigation pending and when no explanation is forthcoming in regard to the delay,

necessarily the unexplained delay would cause serious prejudice to the employee and therefore, enquiry will have to be quashed. [Vide State of

Andhra Pradesh Vs. N. Radhakishan, and P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board, .

(x) yet another Division Bench decision of this Court reported in 2009 (3) TLNJ 132 (Civil) in the case of State of Tamil Nadu, Chennai v. R.

Ramarajan and Ors.

19. On a careful consideration of the facts and circumstances of the case, when initially an inquiry by the CB-CID to probe into the alleged

involvement of the first Respondent in running of illegal gambling dens and casinos in Karur District was ordered, which did not bring out any

adverse findings against the first Respondent and thereafter, even in the inquiry and re-inquiry ordered to be conducted by the DVAC on the

allegation of accumulation of disproportionate wealth nothing incriminating was found against the first Respondent, thirdly the delay in initiation of

disciplinary proceedings in respect of the events which took place in the year 2000-02, i.e. the alleged irregular transfers effected and finally

prolonging the disciplinary proceedings for a considerable length of time, we have no hesitation to conclude that the very object of initiating the

departmental proceedings and allowing it to prolong for a considerable length of time is nothing but to harass the first Respondent and to deprive

him the promotion and other benefits....

9. Per contra, learned Special Government Pleader would strenuously contend that the Respondent has diligently followed the rules and

procedures in respect of the initiation of the proceedings in issuing the charge memo; Normally charges will be framed against erring officials for

malpractices, when it came to light and there is no time limit for taking action against the erring officials; and on the part of the Respondent, there is

no inordinate delay in initiation of the proceedings and they have taken all steps to conclude the proceedings at the earliest. It may be true that there

was some delay on the part of the Respondent to conclude the departmental proceedings, but this Court has to give due consideration for the facts

and circumstances of the case. This Court is required to analyse and determined on its own facts particularly in view of the nature of the charges

leveled against the Petitioner.

9a. To substantiate his stand, learned Special Government Pleader appearing for the Respondents has relied on the following:

(i) a decision of the Supreme Court reported in Deputy Registrar, Cooperative Societies, Faizabad Vs. Sachindra Nath Pandey and Others, .

7. On a perusal of charges, we find that the charges are very serious. We are, therefore, not inclined to close the matter only on the ground that

about 16 years have elapsed since the date of commencement of disciplinary proceedings, more particularly when the Appellant alone cannot be

held responsible for this delay. So far as the merits are concerned, we regret to say that the High Court has not dealt with the submissions - and

fact in support of the submission of the Appellant - that in spite of being given a number of opportunities the first Respondent has failed to avail of

them. If the Appellant's allegations are true then the Appellant cannot be faulted for not holding a regular inquiry (recording the evidence of

witnesses and so on). ... In the circumstances, we have no alternative but to set aside the order under appeal and remit the matter to the High

Court once again for disposal of the writ petition afresh in the light of the observations made herein. Since the matter is a very old one it is but

appropriate that the matter is dealt with expeditiously. Perhaps, it would be appropriate if the Court looks into the records relating to the

disciplinary proceedings also.

(ii) another decision of the Supreme Court reported in AIR 2007 SCW 1639 in the case of Government of A.P. And Ors. v. V. Appala Swamy

10. So far as the question of delay in concluding the departmental proceedings as against a delinquent officer is concerned, in our opinion, no hard

and fast rule can be laid down therefor. Each case must be determined on its own facts.

The principles upon which a proceeding can be directed to be quashed on the ground of delay are:

(1) Where by reason of the delay, the employer condoned the lapses on the part of the employee.

(2) Where the delay caused prejudice to the employee.

Such a case of prejudice, however, is to be made out by the employee before the Inquiry Officer.

(iii) a decision of this Court reported in A. Petchimuthu Vs. The Chief Executive Officer, Tamil Nadu Khadi and Village Industries Board and The

Assistant Director, Khadi and Village Industries, .

11. ...Since the only ground on which the challenge to suspension was made in W.P. No. 11316 of 2007 was that the charge memo was under

stay by this Court. Since the writ petition relating to the charge memo itself has been dismissed, there is no cause for warranting any interference

any interference in the order of suspension, which is impugned in the W.P. No. 11316 of 2007....

(iv) yet another decision of the Supreme Court reported in U.P. State Sugar Corporation Ltd. and Others Vs. Kamal Swaroop Tondon,

30. In our opinion, Mahadevan (2005) 6 SCC 636 does not help the Respondent. No rigid, inflexible or invariable test can be applied as to when

the proceedings should be allowed to be continued and when they should be ordered to be dropped. In such cases there is neither lower limit nor

upper limit. If on the facts and in the circumstances of the case, the Court is satisfied that there was gross, inordinate and unexplained delay in

initiating departmental proceedings and continuation of such proceedings would seriously prejudice the employee and would result in miscarriage of

justice, it may quash them. We may, however, hasten to add that it is an exception to the general rule that once the proceedings are initiated, they

must be taken to the logical end. It, therefore, cannot be laid down as a

proposition of law or a rule of universal application that if there is delay in initiation of proceedings for a particular period, they must necessarily be quashed.

(v) an unreported judgment of this Court dated 22.07.2009 in the case of K. Vadivel Alagan v. Government of Tamil Nadu and Anr.

14. In the light of the above decisions of the Honourable Supreme Court and having regard to the fact that the delay is properly explained in the

counter affidavit of the second Respondent and similar charge leveled against other officers who worked during the relevant period i.e., from the

date of commencement of the construction till the completion of the construction having been proved and the punishment having been imposed on

them, the Petitioner cannot be treated differently than the other officers. The delay in not passing final orders as against the Petitioner from 2001 to

till date on the part of the Petitioner. If the charges against the Petitioner are quashed in spite of punishment given to other officers, who were

proceeded on the same charge, it will amount to giving premium for litigation. No case is made out to quash the charge memo.

10. I have carefully considered the submissions made by the learned Counsel on either side and perused the decisions relied on by them and the

materials available on record.

11. In this case, it is seen that when the Petitioner was working as Zonal Deputy Tahsildar, Theni, there were some allegations against the

Petitioner stating that he had wrongly issued patta in favour of one R. Jeyabharathi and R. Veerachamy. Pursuant to that, for the alleged

occurrence took place in the year 2002, a charge memo came to be issued on 03.11.2009. In the counter of the Respondent, except to state that

there is no time limit for taking action against the erring officials, nothing has been stated further to explain as to why there was a delay in initiating

the disciplinary proceedings and conclude it within a reasonable time. The delay caused has not been properly and satisfactorily explained by the

Respondent as to how much time was taken to initiate the proceedings for the incident which took place in 2002, by issuing the charge memo on

03.11.2009. Even assuming that the delay was due to some reason or other, it was not explained as to why there was no action on the part of the

Respondents between 2002 and 2009. In the absence of any explanation for the

delay, the delay would cause a great prejudice to the Petitioner.

Due to the delay in initiation of the departmental proceedings, the Petitioner's name was not included for promotion on the ground that a charge

memo against the Petitioner was the reason for non-inclusion. It is not proper on the part of the Respondent to issue the charge memo, after a

lapse of seven years, as and when, they think it fit. It is expected that any disciplinary proceedings is reasonably concluded so as to meet the ends

of justice at both ends. Such is not the case in the case on hand.

12. The Supreme Court repeatedly held that the inordinate delay in initiation of the disciplinary proceedings is a ground for quashing the charge

memo unless the Respondent satisfactorily explains the delay. When no explanation is forthcoming with regard to the delay, necessarily the

unexplained delay would cause serious prejudice to the employee. Thereafter, the charge memo will have to be quashed as held by the Supreme

Court in State of Andhra Pradesh Vs. N. Radhakishan, ; P.V. Mahadevan Vs. M.D., Tamil Nadu Housing Board, and Ranjeet Singh v. State of

Haryana and Ors. 2008 (3) CTC 781. There are no special circumstances to explain the inordinate delay and therefore, the charge memo is

vitiated.

13. It is the cardinal principle that it is not possible to lay down any pre-determined principles applicable to all cases and in all situations where

there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to

be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant

factors and to balance and weigh them to determine if it is in the interest of clean and honest termination after delay particularly when the delay is

abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded

expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his

part in delaying the proceedings. The protracted disciplinary proceedings against the Government employee 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. Apart from that, it is well settled law that any omission or commission in the bona fide discharge of quasi judicial function cannot form

basis for initiation of disciplinary proceedings with an inordinate delay of seven years. Since the Petitioner effected patta transfer u/s 10 of the Tamil

Nadu Patta Pass Book Act, 1983, (for short "the Act") the power exercised by the quasi judicial authority under the statute cannot be questioned

by way of initiation of disciplinary proceedings and the same could be set aside in the manner provided under the Act by initiating appropriate

proceedings at an appropriate stage and conclude the same within a reasonable time.

14. Normally, the disciplinary proceedings should be allowed to take their course as per the relevant rules, but then the delay defeats justice, delay

causes prejudice to the charged officer, unless it can be shown that he is to be blamed for the delay or where there is proper explanation for the

delay in conducting disciplinary proceedings. In this case, the Respondent has not explained the reason as to why there was an inordinate delay for

the issuance of the charge dated 03.11.2009. Therefore, the delay caused in initiating the disciplinary proceedings for more than seven years

appears to be inordinate and unexplained.

15. It is pertinent to note that in similar circumstances this Court considered a Writ Petition in W.P. No. 22369 of 2009, dated 16.12.2009, in the

case of K. Vijhay Saai v. State of Tamil Nadu, rep.by its Secretary to Government, Revenue Department, Secretariat, Chennai-600 009 and

Ors., wherein, this Court after analysing all the relevant decisions of the Supreme Court as well as this Court, ultimately held that the inordinate and

unexplained delay will defeat the justice at the threshold and the charges framed therein were quashed. The view elucidated by this Court was also

affirmed by the Division Bench of this Court in the case reported in in W.A. No. 1669 of 2010, dated 29.09.2010 in the case of State of Tamil

Nadu, rep.by its Secretary to Government, Revenue Department, Secretariat, Chennai-600 009 and Ors. v. K. Vijhay Saai and as such, the

impugned charge memo cannot be sustained in the eye of law and the same is liable to be quashed. Taking into account of the fact that no

disciplinary proceedings pending against the Petitioner as on the crucial date viz., 01.01.2009 and as such, by issue of the impugned charge memo,

the third Respondent has deprived the Petitioner from being included in the panel of Tahsildar fit for promotion to the post of Deputy Collector.

16. For the foregoing reasons and the discussions made above, I am of the considered view that the charge memo issued is vitiated on the ground

that there was unexplained and unsatisfactory delay for initiating the proceedings for the incident which took place in the year 2002 and the charge

memo came to be issued on 03.11.2009. Therefore, in order to meet the ends of justice, it is absolutely necessary to quash the charge memo

issued against the Petitioner and accordingly, it is quashed.

17. The writ petition is allowed with a direction to the Respondents to include the Petitioner name in the panel of Tahsildar fit for promotion to the

post of Deputy Collectors for the year 2009 and promote to the said post. Consequently, the connected miscellaneous petitions are also closed.

No costs.