

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-06-2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

WRIT PETITION No.13194 OF 2015

R.Devi Ramamurthy ... Petitioner

-VS-

The Director,
Horticulture and Plantation Crops Department,
Chepauk,
Chennai-600 005. ... Respondent

For petitioner : Mr.Balan Haridas

For respondent : Mr.V.Jayaprakash Narayanan,
Special Government Pleader.

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondent to conclude the proceedings in respect of the Show Cause Notice, dated 07.02.2002, bearing No.B1/27130/2001; Show Cause Notice, dated 05.07.2005, bearing No.B1/13557/05; Charge Memo, dated 03.04.2013, bearing No.DCS1/3529/07, and Charge Memo, dated 10.08.2006, bearing No.B1/14878/2006, issued to V.Ramamurthy, Assistant Director of Horticulture (Under Suspension), by passing final orders within the time frame stipulated by this Hon'ble Court.

ORDER

Petitioner is the wife of one V.Ramamurthy, who was working as the Assistant Director of Horticulture at Ulundurpet.

2. According to the petitioner, in the year 2007, her husband met with an

accident wherein he sustained a head injury; though her husband attained the age of superannuation in the year 2008, he was not permitted to retire; her husband lost memory due to head injury and, therefore, he is not able to remember anything and also to write or sign.

3. The further case of the petitioner is that two disciplinary proceedings initiated against her husband under Rule 17 (b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules, in short, “the Rules”, before his retirement, are still pending and no final orders are passed thereon by the Government.

4. Petitioner has filed this Writ Petition, seeking to conclude the departmental proceedings issued against her husband in respect of two Show Cause Notices, one dated 07.02.2002, bearing No.B1/27130/2001, and the other dated 05.07.2005, bearing No.B1/13557/05, under Rule 17 (a) of the Rules; and two other Charge Memos, one dated 10.08.2006, bearing No.B1/14878/2006; and the other dated 03.04.2013, bearing No.DCS1/3529/07, under Rule 17 (b) of the Rules.

5. Today, learned Special Government Pleader, appearing for the respondent, has produced a letter No.DCS1/14878/2007, dated 02.06.2015, issued by the Director of Horticulture and Plantation Crops, Chennai, to the learned Special Government Pleader, which reads as under :

“DEPARTMENT OF HORTICULTURE AND PLANTATION CROPS

From	To
The Director of Horticulture and	The Special Government Pleader,

Plantation Crops,
Chepauk, Chennai-5.

High Court of Madras,
Chennai-104.

Lr.No. DCS1/14878/2007, dated 02.06.2015

Sir,

Sub : W.P.No.13194/2015 on the file of High Court, Madras – Filed by Tmt.R.Devi Ramamurthy, W/o.V.Ramamurthy, HIG 29, Vilva Nagar, Cuddalore – Reg.

Ref : Your letter dated 29.4.2015.

With referenced to your letter cited, the following details are furnished herewith.

- 1) Disciplinary action under rule 17 (a) of TNCS (D&A) Rules was initiated against Thiru V.Ramamurthy, formerly Assistant Director of Horticulture, Cuddalore, vide ref.B1.27130/2001, dated 7.2.2002. Final orders have been issued dropping further action.
- 2) Disciplinary action under rule 17 (a) of TNCS (D&A) Rules was initiated against Thiru V.Ramamurthy, formerly Assistant Director of Horticulture, Thiruvannamalai, vide ref.B1.13557/2005, dated 5.7.2005. Final orders have been issued dropping further action.
- 3) Disciplinary action under rule 17 (b) of TNCS (D&A) Rules was initiated against Thiru V.Ramamurthy, formerly ADH, Thiruvannamalai, vide ref.B1.14878/2006, dated 10.8.2006 for purchasing sub-standard neem cake during 2002-03 causing loss to Government. This case is remitted to Government for further action at their end since he is an officer under “State Service”.
- 4) Disciplinary action under rule 17 (b) of TNCS (D&A) Rules was initiated against Thiru V.Ramamurthy, formerly ADH, Thiruvannamalai, vide ref.DCS1/3529/2007, dated 3.4.2013 for the misappropriation noticed in the implementation of the RSVY scheme during 2004-05. The case is remitted to Government for further action at their end since he is an officer under “State Service”.
- 5) It is also to inform that audit paras are pending against Thiru V.Ramamaurthy, ADH (u/s).
With reference to the above Sl.Nos.3 and 4, the disciplinary cases

pending against Thiru V.Ramamaurthy, Assistant Director of Horticulture (u/s), the Government is the competent authority to pass appropriate orders.

Hence, it is requested that the Hon'ble Court may be requested to quash the above Writ Petition.

for Director of Horticulture.”

6. As per the aforesaid letter, 17 (a) proceedings against the husband of the petitioner came to an end. However, two 17 (b) proceedings are still pending with the Government.

7. In this case, husband of the petitioner has not filed the Writ Petition. Instead, it is the wife of the Government servant, who has filed this Writ Petition, stating that her husband has lost memory and he could not write or sign. The said averment of the petitioner could not be acted upon, in the absence of any medical certificate issued by a competent Medical Board, to that effect.

8. Had the petitioner made any representation to the respondent to refer to the medical condition of her husband and thereafter pass final orders based on the materials, it would have been a different matter. Hence, I am not inclined to issue any direction to the respondent to pass final orders relating to 17 (b) charges when the same are not concluded and also when the Government is not made as a party to the Writ Petition.

9. It is the case of the petitioner that her husband could not participate in the disciplinary proceedings due to mental disorder, which, in my view, as already stated above, cannot be acceded to, in the absence of any medical certificate to that effect,

by a competent Medical Board.

10. Under the circumstances, the prayer of the petitioner, as sought for in the Writ Petition, cannot be countenanced. However, the petitioner can approach the respondent, seeking for a direction to refer her husband to a Medical Board, to ascertain his mental condition, in which event, if the Medical Board comes to the conclusion that the husband of the petitioner has become vegetable and he could not withstand the inquiry, then, the respondent can make appropriate recommendation to the Government to pass orders on the disciplinary proceedings, pending against the husband of the petitioner, based on the circumstances.

11. Writ Petition is disposed of with the above observation. No costs.

Index : Yes
Internet : Yes

09-06-2015

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To
The Director,
Horticulture and Plantation Crops Department,
Chepauk,
Chennai-600 005.

D.HARIPARANTHAMAN,J.

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W.P.No.13194 OF 2015

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