

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-09-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION Nos.28363 and 28364 of 2015

and

M.P.Nos.1, 2 and 1 of 2015

B.Kumaresan

.. Petitioner in
both petitions

vs

1.The Director of Agriculture
Chepauk, Chennai 600 005

.. 1st Respondent in
WP 28363/2015 and
Respondent in
WP 28364/2015

2.Director of Horticulture and
Plantation Crops
Chepauk, Chennai 600 005

3.The Director of Seed Certification
and Organic Certification
Coimbatore

.. Respondents 2 and 3
in WP 28363/2015

WP No.28363/2015 filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the second respondent in No.O.Na.P3/5864/2015 dated 17.4.2015, and quashing the same and consequently, regularising the suspension period as duty for all purposes and confer all attendant benefits with due regard to the petitioner's seniority.

WP No.28364/2015 filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the respondent in No. DCS 1/3/64734/2015 dated 20.8.2015, and quashing the same and consequently directing the respondent to reinstate the petitioner into service and confer all the attendant benefits with due regard to the petitioner's seniority.

For Petitioner
in both WPs

: Mr.R.S.Anandan

For Respondents
in both WPs

: Mr.R.Vijayakumar
Additional Government Pleader

COMMON ORDER

By consent, both the writ petitions are taken up for final disposal.

2.The petitioner in both the writ petitions, is one and the same. He would state that he joined the services of the Agriculture Department as Assistant Agricultural Officer in the year 1981, and got promoted to the post of Agricultural Officer in the year 2005, and is performing his duties efficiently to the satisfaction of the superior officers. The petitioner would further state that while he was working under the control of the third respondent, he was visited with a Disciplinary Proceedings in the form of a Charge Memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as per the order of the second respondent dated 17.4.2015, and the crux of the charge is that the petitioner had caused loss to the Government while he was working in the Government Horticulture Farm, Kanyakumari and thereby committed misappropriation and further that as per the audit report, a sum of Rs.25,81,010/- has been arrived as loss caused to the Government on account of the misconduct on the part of the petitioner.

3.It is further stated by the petitioner that he has also submitted his explanation in the form of written statement of defence on 13.8.2015, and thereafter, he was also placed under suspension by the first respondent on 20.8.2015, and challenging the legality of the charge memo as well as the order of suspension, came forward to file these writ petitions.

4.Mr.B.Kumaresan, learned Counsel appearing for the petitioner, would submit that the impugned charge memo as well as the order of suspension came to be passed without due and proper application of mind to the materials and would further add that the nature of duties assigned to the petitioner, is to supervise the farm activities and to maintain registers and the said activities are being done by the Assistant Agricultural Officer as well as the Farm Labourers and therefore, the petitioner cannot be mulcted with the said responsibility.

5.Insofar as the order of suspension is concerned, the learned Counsel appearing for the petitioner, would submit that only after the issuance of the charge memo, the order of suspension came to be passed and since the petitioner is aged about 57 years, in the event of non-completion of the Disciplinary Proceedings, his services are likely to be extended, which, in turn, may cause him hardship and great mental agony and prays for appropriate orders.

6.The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepted notice on behalf of the respondents.

7.Though the petitioner prayed for a larger relief of quashment of the charge memo as well as the order of suspension, this Court, in the light of the facts and circumstances, is not inclined to go into the merits of the same at present and is of the considered

view that it would suffice to direct the Director of Horticulture and Plantation Crops, Chepauk, Chennai 5, to conclude the Disciplinary Proceedings and the order of suspension may be reviewed by the first respondent at an early date.

8.In the result, W.P.No.28363/2015 is disposed of and the second respondent viz. the Director of Horticulture and Plantation Crops, Chepauk, Chennai 5, is directed to conclude the Disciplinary Proceedings initiated against the petitioner and pass appropriate orders thereon, on or before 31.12.2015, and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

9.W.P.No.28364/2015 is disposed of and the petitioner is permitted to submit a representation to the respondent within a period of two weeks from the date of receipt of a copy of this order, to review the order of suspension dated 20.8.2015, and the respondent, on receipt of the same, is directed to consider it on merits and in accordance with law and pass orders within a period of six weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

nsv

Sub Assistant Registrar

To:

- 1.The Director of Agriculture
Chepauk, Chennai 600 005
- 2.The Director of Horticulture and
Plantation Crops
Chepauk, Chennai 600 005
- 3.The Director of Seed Certification
and Organic Certification
Coimbatore.

+ 2 ccs to Mr.R.S. Anandan, Advocate Sr.48960, 48959
+ 1 cc to Government Pleader Sr.48273

W.P.Nos.28363 and 28364 of 2015

SVI (CO)
Eu 16.09.15