

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NOs. 28679 OF 2006
and
6805 of 2007 (O.A.NO.6567 of 2002)

S. B. Kamalakannan

..

Petitioner in both WPs

Vs.

1. Government of Tamil Nadu
rep. by Secretary to Govt.,
Rural Development Department,
Fort St. George,
Chennai - 600 009.

2. The Director of Rural Development
Chennai - 600 015.

... Respondents in both WPs

PRAYER in W.P. No.28679/2006: This Writ petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Charge Memos in R.C. No.54538/98/VC.II.2 dated 7.12.1998 of the Second Respondent and R.C. NO.30586/98/VC/II/2 dated 05.03.2002 of the second respondent and the consequential show cause notice in Govt. Lr. No. 35400/E2/2001-20 Rural Development (E2) Department dated 11.08.2005, Govt. Lr. No.3228/E2/1998-20, Rural Development (E2) Department dated 28.10.2005 of the first respondent, quash the same and issue consequential directions to the respondents to permit the petitioner to retire from service on 31.12.1996 A.N in the normal course without any condition and with all consequential pensionary and retirement benefits with interest as per Government order in force and pass further orders.

PRAYER in W.P. No.6805/2007: This Writ petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A.No.6567 of 2002 from the file of the Tamil Nadu Administrative Tribunal praying for a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent relating to Charge Memos in R.C. No.54538/98/VC.II.2 dated 7.12.1998 and R.C. NO.30586/93/ VC/ II/2 dated 05.03.2002, quash the same and issue directions that the

applicant is deemed to have retired on 31.12.1996 A.N with all consequential benefits and to disburse the terminal benefits within a time frame with 18% interest and pass further orders.

For Petitioner : Mr. D. Baskar
in both WPs for Mr. R. Thamaraiselvan

For Respondents : Mrs. M.E. Raniselvam,
in both WPs Additional Government Pleader

O R D E R

There are two writ petitions. The first writ petition is an outcome of O.A. No.6567/2002 filed before the Tamilnadu Administrative Tribunal which came before this Court on transfer as W.P. No.6805/2007, challenging the two charge memos dated 07.12.1998 and 05.03.2002 issued by the second respondent the Director of Rural Development, Chennai.

2. The first charge memo dated 07.12.1998 issued under Rule 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules relates to the alleged loss of Rs.4,700/- to Gudisadhanapalli Panchayat by way of recommending payment of bill for repairing the electric motor of the overhead tank of the Panchayat within the guarantee period and without verifying the earlier payment made for repairing the same motor, while he was serving as an Extension Officer (Panchayats) Hosur Panchayat Union. The petitioner on receipt of the charge memo submitted his explanation on 17.01.1999 denying the charges and indicating that in initiating the disciplinary proceedings there has been an inordinate delay of 6 years and that also includes 2 years after the date of his retirement. In the said explanation he has also mentioned that in respect of the same alleged irregularities, initially charge was framed only against one Mr.M. Nanjundan the then Block Development Officer and later the department had dropped the charges in respect of Mr. M. Nanjundan. Therefore, the same benefit should be extended to him also. However, after the enquiry is over the Government on examining the explanation of the petitioner and the further representation along with the connected records, had concluded the charges against the petitioner as proved and he was imposed with the punishment of cut in pension of Rs.50/- per month for three months as penalty and recovery of Rs.4700/- from his Death cum Retirement Gratuity being the loss caused to Government, in G.O. (D) No.354 Rural Development and Panchayat Raj Department dated 28.06.2006. However, in respect of charge memo dated 05.03.2002 also, on completion of enquiry, the Government after examining the charges, explanation, findings of the enquiry officer and the further explanation of the petitioner, passed a final order, imposing the

punishment of a cut in pension of Rs.50/- per month for 6 months.

3. But, unfortunately, the petitioner had not challenged the G.O. (D) No.640 Rural Development and Panchayat Raj Department dated 01.11.2006. However, learned counsel for the petitioner would submit that the said Mr.M. Nanjundan who was a co-delinquent, issued with a charge memo for the same allegation, on filing O.A. No.2198 of 2000 and obtaining an order from learned Tamilnadu Administrative Tribunal, got the charges dropped. On the same premises, the Tamilnadu Public Service Commission also, in Lr. No. 6432/DCD-C3/2005-1 dated 13.03.2006 addressed to the Secretary to Government of Tamilnadu, Rural Development (E2) Department, Secretariat stating that the disciplinary proceedings initiated against the co-delinquent Mr. M. Nanjundan for the same delinquency has been dropped, as per the direction of the Tamilnadu Administrative Tribunal and hence this delinquent officer/ petitioner may also be treated in the same way by dropping the charges. But, as against the advice given by Tamilnadu Public Service Commission to the Secretary of Tamilnadu Rural Development (E2) Department on 13.03.2006, the Government passed a G.O. (D) No.640 Rural Development and Panchayat Raj Department dated 01.11.2006 imposing the punishment of a cut in pension of Rs.50/- per month for 6 months. Sadly, the petitioner has not challenged the same. Hence, this Court is unable to consider the prayer of the petitioner.

4. Similarly, although the petitioner has challenged both the charge memos dated 07.12.1998 and 05.03.2002, for the reasons best known to him, even after having suffered the punishment of a cut in pension of Rs.50/- per month for 6 months, besides the punishment of cut in pension of Rs.50/- per month for three months as a penalty and recovery of Rs.4700/- from his Death cum Retirement Gratuity being the loss caused to Government, the petitioner had not challenged both the G.Os. Therefore, the prayer in both the petitions fail and have become infructuous.

5. In view of the above, both the Writ Petitions are dismissed. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Govt.,
Government of Tamil Nadu
Rural Development Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Rural Development
Chennai - 600 015.

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