



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD)No.15494 of 2015

and M.P. (MD) No. 1 of 2015

Dr.P.Radha

... Petitioner

Vs.

1.The Secretary,
Department of Animal Husbandry,
Dairying and Fisheries,
Secretariat, St. George Fort,
Chennai

2.The Director,
Animal Husbandry and Veterinary Services,
Chennai.

3.The Regional Joint Director,
Animal Husbandry Department,
Collectorate Complex,
Ramanathapuram.

4.The Assistant Director,
Animal Husbandry Department,
Collectorate Complex,
Ramanathapuram.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of suspension passed by the second respondent, in his proceedings vide ROC NO.35981/ L2/2013 dated 09.07.2013 and consequential impugned order of rejection of the petitioner's representation bearing Na.Ka.No.12989/KaBa/ 1/2013-9 dated 20.03.2014 by the first respondent to quash the same and issue consequential direction to the respondents to reinstate the petitioner in service with consequential benefits and pass further or other order as this Court may deem fit.

For Petitioner ... Mr.M.Ravi

For Respondents ... Mrs.Bharathi
Government Advocate



O R D E R

The petitioner has filed the present Writ Petition challenging the two impugned orders namely the suspension order passed by the second respondent in his proceedings bearing ROC.No.35981/L2/2013 dated 09.07.2013 and consequential order of rejection of the petitioner's representation bearing Na.Ka.No.12989/KaBa 1/2013-9 dated 20.03.2014 by the first respondent to quash the same with consequential direction to the respondents to reinstate the petitioner in service with consequential benefits.

2. By consent, this Writ Petition is taken up for hearing at the stage of admission itself.

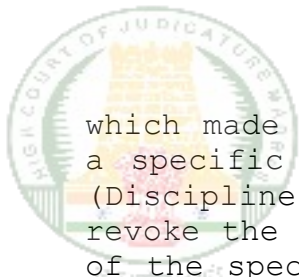
3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate, who takes notice for the respondents.

4. The learned counsel for the petitioner would submit that the petitioner was appointed as Veterinary Assistant Surgeon at Rameswaram Veterinary Dispensary in the year 2012. At that time, the Government introduced a scheme namely, 'Chaff Cutter' under subsidy. The total amount of the chaff cutter is Rs.18048/- and the subsidy for the same would be Rs.13162/- and a sum of Rs.4388/- has to be collected from each beneficiary. After implementation of the said scheme, one Jalaludheen, who is one of the beneficiaries, asked the petitioner to pay the subsidy amount of Rs.5246/- on his behalf. But he never returned back the subsidy amount. When the petitioner asked the said amount, a complaint was wrongly made against the petitioner before the Veterinary and Animal Husbandry Department alleging that the petitioner demanded sum of Rs.3,000/- as bribe for giving a cheque. On that allegation, she was placed under suspension by the second respondent on 09.07.2013 as per the provision under Rule 17(e) (2) of Tamilnadu Civil Service (Discipline and Appeal) Rules.

5. Although the petitioner was placed under suspension on 09.07.2013, the petitioner made a representation on 23.09.2013 requesting revocation of the suspension order. But, there was no response. Therefore, the petitioner made one another representation dated 21.11.2014. Finding no response, the petitioner was constrained to file a writ petition in W.P.No.73 of 2014 seeking a prayer for a direction to dispose of his representation. This Court, by order dated 03.01.2014, considering the limited scope of the writ petition, issued a direction to the first respondent to consider the representation 21.11.2013 and pass orders on merits and in accordance with law within the period of 8 weeks from the date of receipt of a copy of this order.

6. Thereafter, the first respondent without application of mind passed the wrong order mentioning that there is no provision for revoking the suspension order, which is running contrary to Rule 17(e) (6) of Tamil Nadu Civil Services Appeal and Discipline Rules.

7. Taking support from the said Rule, Mr.Ravi, learned counsel for the petitioner submitted before this Court that a reading of the said Rule clearly shows that an order of suspension made or deemed to have been made under this rule may at any time be revoked by the authority



which made or is deemed to have made the order. Therefore, when there is a specific provision of the Rule 17(e)(6) of Tamil Nadu Civil Services (Discipline and Appeal) which gives power to the first respondent to revoke the suspension order, the first respondent ignoring the existence of the specific Rule erroneously rejected the representation in spite of the order passed by this Court to consider his case on merits and in accordance with law.

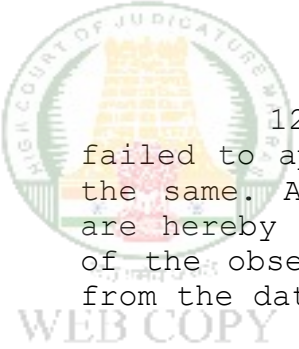
8. Taking support from the judgment of the Full Bench of this Court in the case of S.Ravi and others Vs.The District Collector and others reported in 2015(1)CWC 833, he further pleaded that when this Court while referring to Rule 17(e)(6) of the Tamilnadu Civil Services (Discipline and Appeal) Rules has made it clear that the competent authority is empowered to take a decision as to the revocation of suspension at any time, the impugned order saying that there is no provision to revoke the suspension order is *per se* illegal. He would further submit that the petitioner was placed under suspension on 09.07.2013 and without extracting any work the petitioner is being paid with 50% of her monthly salary, therefore, a direction may be issued to the first respondent to consider the case of the petitioner in the light of the Rule 17(e)(6) of Tamilnadu Civil Services (Discipline and Appeal) Rules, he pleaded.

9. Rebutting the above submissions, Mrs.Bharathy, learned Government Advocate appearing for the respondents submitted that in reference to the order passed by this Court in W.P.No.73 of 2014 dated 03.01.2014, in which this Court had given a direction to consider the petitioner's representation for revocation of the suspension order, the first respondent has rightly rejected the request of the petitioner for the reason that the case of the petitioner is relating to the involvement of not only criminal case but a case initiated by the Department of Animal Husbandry and Veterinary Services. Therefore, no fault can be find on the impugned order.

10. But, this Court is not able to agree with the said contention. The reason is that a mere reading of the impugned order clearly shows that the respondent has not applied his mind while passing the impugned order, because the order says that there is no provision for revocation of the suspension order passed on 09.07.2013, which is *ex facie* wrong. In this regard, it is relevant to extract Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, which reads as under:

"An Order of Suspension made or deemed to have been made under this rule may at any time be revoked by the Authoirty which made or is deemed to have made the Order or by any Authority to which that Authority is subordinate, thereby empowering the Competent Authority to take a decision as to the revocation of suspension at any time"

A careful perusal of the above provision clearly shows that the stand taken by the first respondent refusing to consider the case of the petitioner stating that there is no provision to revoke the suspension order in the light of Rule 17(e)(6) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules is liable to be set aside.



12. This Court, considering the fact that the respondent has failed to apply his judicial mind to the issue, is inclined to set aside the same. Accordingly, the impugned order is set aside. The respondents are hereby directed to consider the case of the petitioner in the light of the observation made above on merits within a period of eight weeks from the date of receipt of copy of this order.

13. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar (CO)

/TURE COPY/

Sub Assistant Registrar

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To

- 1.The Secretary,Department of Animal Husbandry,
Dairying and Fisheries,Secretariat,St.George Fort,
Chennai
- 2.The Director,Animal Husbandry and Veterinary Services,
Chennai.
- 3.The Regional Joint Director,Animal Husbandry Department,
Collectorate Complex,Ramanathapuram.
- 4.The Assistant Director,Animal Husbandry Department,
Collectorate Complex,Ramanathapuram.

+1 cc to MR.POLAX LEGAL SOLUTIONS , ADVOCATE, SR NO: 49582
+1 CC to M/S.SPL.GOV.T.PLEADER, SR NO: 49551

JAM /13.10.2015/ AAL-MPA/4P=7C

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