



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2015

Coram

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) No. 45 of 2011

and

M.P. (MD) No. 1 of 2011

M. Kader Mohideen

: Petitioner

vs.

1. The Agricultural Production Commissioner
and Secretary to Government,
Secretariat, Chennai - 600 009.

2. The Director of Agriculture,
Directorate of Agriculture,
Chepauk, Chennai 600 005.

3. The District Collector,
Theni District,
Theni

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari calling for the records of the first respondent relating to G.O. (3-D) No. 107, Agriculture Department, dated 23.07.2010 and quash the same.

For Petitioner : Mr. S. Visalingam

For Respondents : Mr. S. Sadesh Kumar
Addl. Govt. Pleader

ORDER

This Writ Petition has been filed by Mr. M. Kader Mohideen, challenging the impugned order of punishment imposed against him in G.O. (3-D) No. 107, Agriculture Department, dated 23.07.2010, inflicting recovery of Rs. 3000/- per month, for a period of two years, for the proven charges in the departmental proceedings.

2. The petitioner was issued with a charge memo, dated 20.06.2006 and on receipt of the charge memo, he has submitted his detailed explanation, dated 26.06.2006, denying the charges stating that he being at the helm of affairs of other officers working under him must not be held responsible for the shortage of saplings, as reported by the District Collector in his proceedings, dated 14.06.2006. In the said letter, the District Collector has also specifically naming 25 persons, no proceedings whatsoever has been initiated against him. On the other hand, the petitioner alone was proceeded departmentally. As a result, he was made to pay a sum of Rs. 3000/- during his retiral day for a period of two years. Such an approach of the disciplinary authority is not only



unfair and untenable but, also amounting to treat the petitioner discriminatively, for the wrong caused by some other persons in the department. However, the disciplinary authority finding that the explanation offered by the petitioner were not acceptable, finally appointed an enquiry officer. On completion of the enquiry, receiving a report from the enquiry officer, imposed an order of recovery of a sum of Rs.3000/- per month, for a period of two years, as a punishment, with which it will be very difficult in these days to eke out his livelihood with a limited source of pension. Adding further he would submit that it is not the case of the respondents that others were not responsible, more particularly, when the District Collector has found out the irregularities pin-pointing even the names of the other officers, it is not known why the department has not initiated any disciplinary proceedings against them. Therefore, the impugned order, imposing recovery of a sum of Rs.3000/- per month, again the petitioner alone, for a period of two years, is liable to be set aside.

3. But this Court finds no justification in these contentions for the reason that in respect of Periyakulam Unit 61,375 number of seedlings were distributed, during the year 2004-05 and 2005-06, however, subsequently, the Tahsildar has reported that only 10,901 number of seedlings alone were available in the filed verification. Secondly, the second charge put against the petitioner shows that in respect of Bodinayakanur Panchayat Union 43,300 seedlings have been recorded to have been supplied to the beneficiaries, but during inspection, the Tahsildar found out that only 19,270 seedlings alone were planted. The balance 24,030 seedlings have not been planted, as per inspection report of the Tahsildar, Bodinayakanur and in his report, the Tahsildar has also mentioned that the seedlings have been supplied to the 10 fictitious persons viz., in Perumal Goundanpatti Village in Bodinayakanur Taluk. No doubt, the petitioner was a Member Secretary in the District Watershed Development Committee, headed by the District Collector, who has also sent a report to the Director of Agriculture, Chennai, after conducting thorough inspection, for initiation of departmental proceedings against 24 other persons in respect of the works carried out in Bodinayakanur, Andipatti and Periyakulam Panchayat Union. But that does not mean that non-initiation of disciplinary proceedings against the 24 persons will be fatal to the departmental proceedings initiated against the petitioner. When the petitioner was found guilty by the enquiry officer on the charges leveled against him, for which, he has given his explanation, which ultimately turned out to be unacceptable, this Court keeping in mind that he has been imposed with a simple and minor punishment of recovery of a sum of Rs.3000/- per month, for a period of two years, which comes to Rs.72,000/-, cannot be construed as an unbearable punishment, the reason is, during pendency of the departmental proceedings, the petitioner was allowed to retire on 30.06.2006, subject to the result of the disciplinary proceedings. Since the petitioner was allowed to retire from service on reaching the age of superannuation on 30.06.2006, he has been imposed with this minor punishment for the proven serious charges, therefore, this Court is not inclined to interfere with the impugned order. Hence, the writ petition fails and the same is liable to be dismissed.



4. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(Per.Admin)

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/True Copy/

Sub Assistant Registrar.

Mpk

To

1.The Agricultural Production Commissioner
and Secretary to Government,
Secretariat, Chennai - 600 009.

2.The Director of Agriculture,
Directorate of Agriculture,
Chepauk, Chennai 600 005.

3.The District Collector,
Theni District, Theni

+one cc to Mr.S.Visvalingam, Advocate in SR.No.56284/15

+one cc to The Special Government Pleader in SR.No. 56713/15

W.P. (MD) No.45 of 2011
23.09.2015

CSL/SKS-RR/04.11.2015
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