



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

C O R A M

WEB COPY

THE HONOURABLE Dr.JUSTICE S.VIMALA

Writ Petition (MD) No.6340 of 2011

M.Rajendran

.. Petitioner

Vs.

The Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture Department, Secretariat,
Chennai - 600 009.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the respondent relating to G.O.(3-D) No.91 Agriculture (....611,5.....8) Department dated 18.04.2011 and quash the same.

For petitioner

... Mr.S.Viswalingam

For Respondent

... Mr.T.S.Mohammed Mohideen

Additional Government Pleader

O R D E R

By the order dated 18.04.2011 of the respondent, punishment of stoppage of increment with cumulative effective for the period of one year was passed against the petitioner, which is under challenge in this writ petition.

2.The petitioner joined as Assistant Agricultural Officer, Vilampatti, on 05.11.1981. He was promoted as Agricultural Officer on 30.03.2011. The charge memo was issued against him under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules by the Director of Agriculture on 22.02.2007.

3.The charge memo relates to the sub-letting of a Government quarters allotted to the petitioner. The contention of the petitioner was that actually he did not occupy the Government quarters at all, right from the beginning as the buildings are not available.

4.The specific case of the petitioner is that the quarters has been let out even in the year 2000 by his predecessor and ~~there is no sub-letting by the petitioner herein. The explanation was not accepted and the charge memo came to be issued and finally after enquiry, the impugned order came to be passed.~~



5.The punishment is assailed by the learned counsel for the petitioner on three grounds viz.,

(i)When there was an allegation against the colleagues of the petitioner herein, proceedings have been initiated only as against this petitioner and therefore, the proceedings are discriminatively;

(ii)When the so called sub-tenant was before the enquiry officer, the petitioner was not given an opportunity to cross examine the concerned witness; and

(iii)There is an inordinate delay in issuing the charge memo viz-a-viz the time during which the tenant is stated to have occupied the quarters.

6.The learned Additional Government Pleader would submit that there is absolutely no delay on the part of the enquiry officer, as the petitioner himself came to be appointed only in the year 2004 and immediately charge memo has been issued as soon as it is brought to the knowledge of the respondents.

7.It is not necessary to discuss the merits or demerits of the proceedings initiated against the petitioner, as the possibility of implementing the order itself has become impossible on account of the fact that the petitioner has already left the services on account superannuation. The question of stoppage of increment does not arise, where there is no time scale of pay, on account of superannuation.

6.With the above observation, the writ petition is disposed of. No costs.

Sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To
The Agricultural Production Commissioner
and Principal Secretary to Government,
Agriculture Department, Secretariat,
Chennai - 600 009.

+1CC to M/S.S.Visvalingam, Advocate, SR.No. 55832
+1CC to the Special Government Pleader, SR.No. 56399

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