

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

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THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A.No.143 OF 2016 &
C.M.P.Nos.1875 & 7723 of 2016

- 1.The Director of Agriculture
Chepauk,
Chennai - 5
- 2.The Joint Director of Agriculture
Lawley Road,
Coimbatore-13. . . Appellants/Respondents

-vs-

B.Ramesh . . . Respondent/Petitioner

Writ Appeal filed under clause 15 of the Letters
Patent against the order dated 08.06.2015 rendered in
W.P.No.10107 of 2015.

WP.No.10107 of 2015:Writ Petition filed under Article 226 of the
Constitution of India for the relief of issuance of Writ
Certiorarified Mandamus Calling for the records relating to the
1st respondent proceedings viz. DCS.1/(1)/ 39874/ 2014 dated
28.3.2014 and further proceedings DCS/1/(1)/ 39874/ 2014 dated
21.7.2014 through 2nd respondent Memo in Ref. A2/13991/13(1)
dated 2.8.2014 and quash the same and consequently direct the
respondents to reinstate the petitioner into service with all
back wages treating the period of suspension as on duty on par
with three other persons

For Appellants : Mrs.A.Srijayanthi
Spl.Govt. Pleader

For Respondent : Mr.V.Chokalingam

J U D G E M E N T

NOOTY.RAMAMOZHANA RAO, J.

This Writ Appeal is preferred by the Director of Agriculture and the Joint Director of Agriculture, aggrieved by the Judgment and order rendered on 8th June, 2015 in W.P.No.10107 of 2015, which is instituted by the respondent herein.

2.The Writ Petitioner/respondent herein while working as an Agricultural Officer has been placed under suspension, pending investigation. It appears, one Shir M.Mahalingam lodged a complaint with the Police alleging a cyber crime committed by the respondent, by creating a false I.D. In the complaint, names of three persons, who are all Government Servants, have been mentioned. As it turned out, only the writ petitioner has been placed under suspension.

3.The learned single Judge after critically analysing the fact situation prevailing, has come to the conclusion that the approach adopted by the present appellants herein in selectively suspending the employees while leaving out the other unscathed, amounts to an arbitrary exercise of power available with them. The learned Single Judge therefore, had no hesitation to allow the Writ Petition.

4.Only with a view to satisfy ourselves, we have secured a translated copy of the complaint lodged by Shri M.Mahalingam with the Police on 19th February, 2014 and we have perused the F.I.R. bearing No.12 of 2014 dated 19th February, 2014, on the file of the Kovai City P.S. Crime Branch. We have also perused the contents of the charge sheet filed with regard to Crime No.12 of 2014. The writ petitioner/ respondent was arrayed as A1. However, the Criminal Court has acquitted him, by its Judgment dated 11th January, 2017, in C.C.No.14 of 2015, for the failure of the prosecution to prove the commission of crime by the accused beyond all reasonable doubt. It is therefore clear to us that the very basis which enabled the appellants before us to place the writ petitioner under suspension has since vanished.

5.Even otherwise, the Hon'ble Supreme Court has clearly pointed out in K.SUKHENDER REDDY v. STATE OF ANDHRA PRADESH [(1999) 6 SCC 257] as follows:

"7..... That being so, the officer of the rank of the appellant, against whom it has now come out that the disciplinary proceedings are not contemplated, cannot be kept under suspension for an indefinite period, particularly in a situation where many more senior officers may ultimately be founded involved, but the appellant alone has been placed under suspension. The Government cannot be permitted to resort to selective suspension. It cannot be permitted to place an officer under suspension just to exhibit and feign that action against the officers, irrespective of their high status in the service hierarchy, would be taken."

6. The learned Single Judge applied the above ratio faithfully to the present case.

7. In this view of the matter, we see no warrant for interference with the orders passed by the learned Single Judge and we accordingly, dismiss the Writ Appeal. No costs. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa

To

1.The Director of Agriculture,
Chepauk, Chennai-5

2.The Joint Director of Agriculture,
Lawley Road, Coimbatore

+1 cc to Government Pleader High Court Madras
sr 14286

+1 cc to M/s.V.Chokalingham Advocate sr 10386

W.A.No.143 OF 2016

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