



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.1253 of 2015
and
M.P. (MD) No.2 of 2015

1. The State of Tamil Nadu,
Agricultural Production Commissioner and
Secretary to Government,
Agriculture Department,
For St.George, Chennai-9.
 2. The Deputy Director of Horticulture,
Thirunelveli.
 3. The Commissioner for Disciplinary Proceedings,
No.4/929,40 feet Road, Rahmath Nagar,
Palayamkottai,
Thirunelveli-11.
- ... Appellants/Respondents

Vs.

L.Saraswathy

... Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to allow the Writ Appeal by setting aside the order dated 08.08.2014 made in W.P.(MD)No.10295 of 2009 and M.P.(MD)No.2 of 2009, on the file of this Court.

Prayer in WP(MD). 10295/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ or order or direction or Writ of Certiorarified Mandamus calling for the records relating to the order dated.24.02.2003 made in T.D.P. Case No.1/2002 passed by the 3rd respondent and the consequential proceedings made in G.O.(3D) No.96 dated 30.06.2009 passed by the 1st respondent and quash the same, and consequently direct the respondents to restore the petitioner s seniority, pay, promotion, arrears and all consequential benefits in accordance with law within a time frame. (Prayer amended as per the order of the Court dt.30/9/2011 in MP.1/2011)



For Appellants

: Mr.T.S.Mohamed Mohideen,
Additional Government Pleader

For Respondent

: Mr.J.Selvam for
Mr.C.Arul Vadivel @ Sekar

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JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

This Writ Appeal is directed against the order dated 08.08.2014 made in W.P.(MD).No.10295 of 2009 filed by the respondent herein.

2.The first respondent herein was working as Horticultural Officer, WGDP, Nanguneri. She was issued with a charge memo. The Tribunal/Commissioner for Disciplinary Proceedings, Thirunelveli, took the case on file in T.D.P Case No.1 of 2002. One of the charges framed against the writ petitioner was held to be proved. The Government_issued G.O.(3D).No.96, Agriculture ((AA8(2))), dated 30.06.2009, imposing the punishment of withholding the Writ Petitioner's increment for a period of one year without cumulative effect. It also ordered recovery of Rs.30,000/- in 30 equal monthly installments. The same was challenged by the respondent herein by filing W.P.(MD).No.10295 of 2009. The learned single Judge allowed the Writ Petition by order dated 08.08.2014. Aggrieved by the same, the Government has filed this intra-Court appeal.

3 .Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the respondent.

4. This Court carefully went through the order passed by the learned single Judge allowing the writ petition. It is seen that the writ petition was allowed only on the ground that there was a delay in issuing the charge memo and that there was no explanation for the same. According to the learned single Judge, this delay vitiates the entire proceedings. We are unable to concur with the said reasoning. It is no doubt true that the charge memo dated 24.01.2001, pertains to the events that took place during 1995-1996. But the respondent herein submitted her explanation to the charge memo and a full-fledged enquiry was conducted.

5. The Tribunal found that one of the charges against the respondent was proved. Thereafter the Government issued an order of punishment. The respondent was questioning the order of the Tribunal and the order of punishment passed by the Government. Therefore the issue ought to have been dealt with on merits. If the Writ Petitioner had come to this Court at the time of issuance of the charge memo itself, then the matter could be examined from the perspective of delay. Now that stage has crossed. While dealing



with the final order of punishment, the question of delay in initiating the issuance of charge memo was no longer available for consideration. Unless the delinquent had been prejudiced in her defence as a result. That is not the case here.

6. We are of the view that the learned single Judge had completely misdirected himself in law. There is no consideration of the materials adduced against the writ petitioner. There is no discussion of correctness of the order passed by the Tribunal or by the Government. The only reason for allowing the Writ Petition is non-explanation of the delay in issuing the charge memo. This in our considered view cannot be said to be a correct approach. We therefore set aside the order dated 08.08.2014 made in W.P(MD) No.10295 of 2009.

7. This Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Agricultural Production Commissioner,
Agriculture Department,
Government of Tamil Nadu,
For St. George, Chennai-9.
2. The Deputy Director of Horticulture,
Thirunelveli.
3. The Commissioner for Disciplinary Proceedings,
No.4/929, 40 feet Road, Rahmath Nagar,
Palayamkottai,
Thirunelveli-11.

+ 1 CC TO Mr.C.ARUL VADIVEL @ SEKAR, ADVOCATE IN SR No. 72073
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 72616

KM/DSS

TE/MR-KKR : 21/09/2017 : 3P/6C

W.A. (MD) No.1253 of 2015 and
M.P. (MD) No.2 of 2015
10.08.2017