

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.02.2018
CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.3050 of 2018

Dr.K.Veerasamy

... Petitioner

Vs.

- 1.The Director of Horticulture
and Plantation Crops,
Chepauk, Chennai-600 005.
- 2.The Director of Agriculture,
Chepauk, Chennai-600 005.
- 3.The Joint Director of Horticulture (MI),
TANHODA, (The Enquiry Officer),
O/o.The Director of Horticulture
and Plantation Crops,
Chepauk, Chennai-600 005. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Joint Director of Horticulture (MI), TANHODA, the third respondent herein to complete the enquiry pursuant to the Charge Memo issued on 24.01.2017, within a short date and further direct the Director of Horticulture and Plantation Crops, Chennai, the first respondent herein to pass Final Orders thereafter within a short date that may be fixed by this Court.

For Petitioner : Mr.K.Rajkumar
For Respondents : Mr.R.S.Selvam,
Government Advocate

O R D E R

This Writ Petition has been filed seeking a mandamus directing the third respondent to complete the enquiry pursuant to the charge memo issued on 24.01.2017 and further directing the first respondent to pass final orders thereafter within a stipulated time.

2. This Court, considering the arguments of the petitioner, has passed the following order on 12.02.2018:

"2.Taking reliance from the Letter No.1118/Per-N/87 dated 22.12.1987 issued by the Government of Tamil Nadu, fixing the time limit for expeditious disposal, learned counsel appearing for the petitioner sought for a suitable direction. The relevant portion is extracted hereunder:

"...Hence, the following time limits are now prescribed for processing the disciplinary proceedings so as to ensure that there is no unwarranted delay in finalising them.

[i] For calling for explanation under rule 17[a] of the Tamil Nadu Civil Services [Classification, Control and Appeal] Rules or framing charges under 17 [b] of the aforesaid rule under which the disciplinary proceedings should be initiated is very important and the disciplinary authorities are expected to exercise their mind and take action - 15 days.

[ii] For the accused officer to peruse the records and to submit his written explanation - 30 days.

[iii] For appointment of Enquiry Officer wherever necessary after the receipt of the explanation - 7 days.

[iv] For the Enquiry Officer to complete the enquiry and submit the enquiry report - 30 days

[v] For the Disciplinary Authority to take a decision after the receipt of the enquiry officer's report - 10 days

[vi] For obtaining the views of TNPSC, whenever it is consulted - 30 days

[v] For issue of final orders on the departmental disciplinary proceedings

a) By Disciplinary Authorities other than Government - 7 days

b) By Department of Secretariat which have to consult other departments and obtain orders in circulation - 30 days."

3. Mr.R.S.Selvam, learned Government Advocate, who takes notice for the respondents is directed to get instructions, why the above directions have not been followed in this case...."

3. In response, counter affidavit has been filed by the first respondent setting out the following reasons in paras 7 and 10 as under:

"7. With regard to the averments made in paragraphs 7 and 8 of the affidavit. I submit that Tmt.K.Rani, formerly Joint Director of Horticulture, TANHOPE was appointed as Enquiry Officer vide this office Proc.No.DCS1/3427/2016,

dated 21.09.2017. However, the said Enquiry Officer was relieved from the inquiry duty since, proceeded on voluntary retirement.

...

10. I submit to state that the Enquiry Officer and the 3rd respondent herein, Thiru.S.Tamilvendharan, Joint Director of Horticulture (MI) was appointed as Enquiry Officer, vide this office Proc.No.DCS1/3427/2016 dated 7.11.2017. I further submit to state even the petitioner has submitted his explanation after the lapse of 109 days of mandatory time limit, the enquiry officer could not be appointed due to vacancy of posts in the cadre of Joint Director of Horticulture and the available Joint Director of Horticulture cadre officer are retired shortly."

Thus, from the counter affidavit, it is seen that Tmt.Rani, formerly Joint Director of Horticulture, TANHOPE was initially appointed as Enquiry Officer, however she proceeded on voluntary retirement and subsequently, Thiru.S.Tamilvendhan, Joint Director of Horticulture (MI) was appointed as Enquiry Officer on 07.11.2017. Further, the petitioner has submitted his explanation after a lapse of 109 days of mandatory time limit.

4. Mr.R.S.Selvam, learned Government Advocate appearing for the respondents 1 to 3 has now sought for sufficient time to complete the enquiry and thereafter, the enquiry report will be forwarded to the first respondent for passing final orders.

5. Placing on record the submission made by the learned Government Advocate, this Court directs the third respondent to complete the enquiry before the end of February, 2018 and forward the same to the first respondent, who shall pass final orders within a period of two months thereafter.

6. This Writ Petition is disposed of accordingly. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar (CS-VIII)

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Sub Assistant Registrar

jvm

To

1.The Director of Horticulture and Plantation Crops,
Chepauk, Chennai-600 005.

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

3.The Joint Director of Horticulture (MI),
TANHODA, (The Enquiry Officer),
O/o.The Director of Horticulture
and Plantation Crops,
Chepauk, Chennai-600 005.

+1cc to the Government Pleader, S.R.No. 13254

+1cc to Mr.K.RAJKUMAR, Advocate, S.R.No. 12924

W.P.No.3050 of 2018

SSD(CO)
TR(08/03/2018)



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