

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1752 of 2017  
and CMP No.22263 of 2017

1. The Commissioner & Secretary,  
Animal Husbandry Department,  
Fort. St. George, Chennai 600 009.
  2. The Director of Animal Husbandry,  
Animal Husbandry Department,  
DMS Compound, Teynampet,  
Chennai 600 006.
  3. The Regional Joint Director,  
Animal Husbandry Department,  
Villupuram.
  4. The Assistant Director,  
Animal Husbandry Department,  
Kallakurichi.
  5. The Labour Officer,  
Cuddalore.
- ... Appellants
- versus
- P.Muthusamy
- ... Respondent

Appeal filed against the order passed by this Court dated  
08.11.2016 passed in W.P.No.29388 of 2011.

W.P.No.29388 of 2011:-

Writ Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus calling for records relating to 3<sup>rd</sup> Respondent order made in Reg.No.Na.Ka.No.5568/A2/03, dated 08.07.2004 to quash the same and consequently direct to extend all benefits both service and monetary.

For appellants : Mr.V.Anandhamurthy  
Additional Government Pleader

For Respondent : Mr.G.Elanchezhiyan

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this Intra Court Appeal is to the order of the learned Single Judge, in and by which, the punishment of removal from service imposed on the respondent was modified as one of reversion to the lower post.

2. Considering the fact that the respondent had retired, the learned Single Judge directed the appellants to compute the retirement benefits due to the respondent in the lower post without any back wages.

3. The facts that led to the filing of the Writ Petition are as follows:

The respondent joined the services of the Appellants as Office Assistant on compassionate ground on 06.01.1985. He was designated as a Livestock Assistant. During the year 2000, the respondent had applied for the post of Livestock Inspector. The qualification for the said Livestock Inspector as per the Rules was pass in 10<sup>th</sup> Standard (SSLC). Based on his application, the respondent was selected and deputed for training and after successful completion of training, he was appointed as Livestock Inspector Grade-III on 13.04.2001. His service in the post was also regularized by an order dated 26.08.2003. Since, there was a complaint regarding the validity of the SSLC Certificate furnished by the respondent, the Certificate produced by him was sent for verification with the Appropriate Authority, viz. the Directorate of Government Examination, Chennai 6. Since, it was found that the said Certificate was a bogus Certificate, from the report of the Directorate of Government Examination, the respondent was kept under suspension by an order dated 19.03.2004. Thereafter, an enquiry was conducted and during the enquiry, the respondent had admitted the guilt claiming that he did not know that the Certificate was bogus and he also submitted before the Enquiry Officer that he did not have the original Certificate. Having found that the charges are proved, the Disciplinary Authority imposed a punishment of removal from service on the respondent, by his proceedings in Na.Ka.No.5468/A2/03, dated 08.07.2004. This order was challenged before this Court in WP No.29388 of 2011.

4. The learned Single Judge, who heard the Writ Petition taking note of the decision of a Division Bench of this Court in P.Sekar, S/o.Ponnan v. The Registrar, Tamil Nadu Administrative Tribunal, Chennai and others, reported in 2008 (3) CTC 23, held that the punishment is disproportionate to the offence and modified the punishment to one of reversion to the original post. It is this order, which is challenged in this Writ Petition.

5. We have heard Mr.V.Anandhamurthy, learned Additional Government Pleader appearing for the appellants and Mr.G.Elanchezhiyan, learned counsel appearing for the respondent.

6. It is not in dispute, that the facts of this case are almost identical to the facts of the P.Sekar's case reported in 2008 (3) CTC 23, (cited supra). Mr.G.Elanchezhiyan, learned counsel appearing for the respondent brought to our notice that the appellants have in fact, implemented the order of the Division Bench, in respect of the employee, viz. Mr. P.Sekar. The learned counsel for the respondent has also produced the type set containing several orders passed by this Court, with reference to similar cases, wherein, this Court has consistently followed the decision of the Division Bench in P.Sekar's case reported in 2008 (3) CTC 23, (cited supra), and concluded that the punishment of removal from service is really disproportionate to the charges leveled against these employees, and reduced the punishment by reverting them to the lower post. At least in three cases the Government had accepted the orders of this Court and had implemented them.

7. In the case on hand also there is no material to show that the respondent knowingly submitted a false mark sheet. Considering the facts and circumstances of the case, we are in entire agreement with the observations of the Division Bench made in P.Sekar's case, reported in 2008 (3) CTC 23, (cited supra) and we do not see any reason to interfere with the conclusions of the learned Single Judge.

8. In view of the above, the Writ Appeal fails and the same is dismissed. It is made clear that the respondent would be entitled to notional computation of retirement benefits in the lower post viz., Livestock Assistant. He will not be entitled to any back wages. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

jv

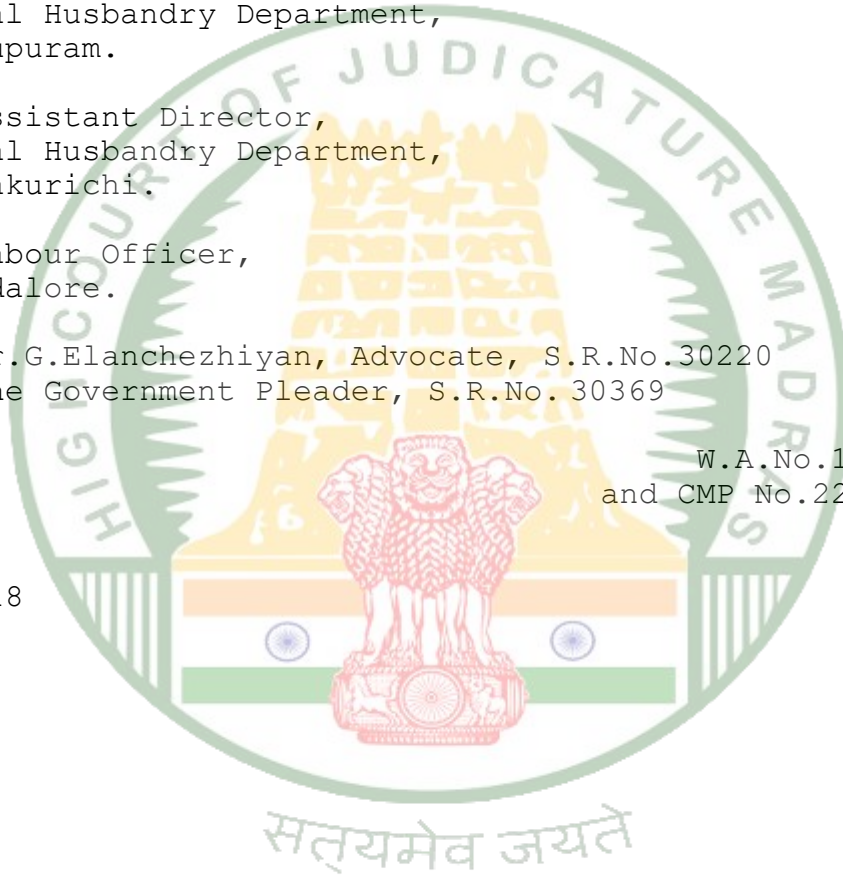
To

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+1cc to Mr.G.Elanchezhian, Advocate, S.R.No.30220  
+1cc to the Government Pleader, S.R.No. 30369

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