

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2018
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4962 of 2018
And
W.M.P.Nos.6113 and 6114 of 2018

Dr.K.Veerasamy

...Petitioner

Vs.

1.The Agriculture Production
Commissioner and the Secretary
to Government,
Fort St.George,
Chennai - 600 009.

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

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

4.The Deputy Director of
Horticulture (incharge)
Kundu Salai,
Semmandalam,
Cuddalore - 607 001.

...Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Director of Horticulture, Chennai, the second respondent herein in made in his office Reference No.O.Na.P1/ 3427/2016-1 dated 07.03.2016 quash the same and forebear the respondents herein from in any manner proceed further as held in similar case by the Honble Apex Court in Ishwari Prasad Gupta's case and direct the respondents herein to disburse all the consequential service and monetary benefits which has been withheld on account of the above disciplinary proceedings.

For Petitioner : Mr.K.Rajkumar

For Respondents: Mr.R.S.Selvam

Government Advocate

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Director of Horticulture, Chennai, the second respondent herein made in his office Reference No.O.Na.P1/ 3427/2016-1 dated 07.03.2016, to quash the same and forebear the respondents herein from in any manner proceed further as held in similar case by the Honble Apex Court in Ishwari Prasad Gupta's case and direct the respondents herein to disburse all the consequential service and monetary benefits which has been withheld on account of the above disciplinary proceedings.

2.This petitioner has again visited this Court seeking issuance of Writ of Certiorarified Mandamus to quash the charge memo dated 07.03.2016, on the sole ground that the petitioner having suffered the said charge memo relating to certain minor irregularities, have faced the enquiry by giving detailed explanation to the charge memo denying and disproving the charges. However, the Disciplinary Authority has not taken any steps to conclude the enquiry after a long time even after appointing Enquiry Officer and a report was also submitted in January, 2017. From January, 2017, the matter was kept in cold storage and the disciplinary authority failed to give way to consider the request of the Enquiry Officer.

3.Therefore, the petitioner showing his bonafide has come before this Court seeking to pass final orders on the pending enquiry by filing writ petition in W.P.No.12740 of 2017. The prayer made in the writ petition clearly shows that the petitioner wanted expeditious completion and disposal of the pending disciplinary proceedings.

4.The petitioner, as the date of his superannuation is fast approaching, wanted early disposal of the pending disciplinary proceedings. This Court appreciating the genuine request made by the petitioner, by order dated 17.05.2017 in W.P.No.12740 of 2017, taking into account the following ratio laid down by this Court in S.Gandhi Vs. State of Tamil Nadu reported in (2006 (3) MLJ 80), wherein, it is held that the disciplinary authority shall pass orders within the specified time and on failure of the same, charges deemed to be dropped, directed the Director of Horticulture and Plantation Crops, the second respondent herein - disciplinary authority, to pass final orders in the pending disciplinary proceedings initiated against the petitioner pursuant to the charge memo dated 07.03.2016, within a period of six weeks from the date of receipt of a copy of the order.

5.The issuance of charge memo containing minor charges which has been proved by the petitioner by participating enquiry, the respondents have not come forward, mindless of the direction of this Court, to comply and pass final orders within a period of six weeks from the date of receipt of a copy of the order.

6.Therefore, as per the settled legal position, whereas, once a direction given by this Court to do a particular act is not complied with, within that specified time limit, the charges should be deemed to be dropped. Taking support from a judgment of the Hon'ble Apex Court, the petitioner again reiterated his prayer to quash the charge memo. Though sufficient time was given to the respondent disciplinary authority to pass final order on the basis of the report of the Enquiry Officer, the same has not been duly complied with. He has also placed reliance on one another order passed by this court in W.P.No.20654 of 2007, dated 27.08.2008.

7.When the matter was taken up for admission, considering the grievance of the petitioner that a direction was already given to the disciplinary authority by order dated 17.05.2017 in W.P.No.12740 of 2017, this Court directed Mr.R.S.Selvam, learned Government Advocate, to take instructions as to whether the disciplinary authority has passed any order on the pending disciplinary proceedings.

8.Today, when the matter was taken up, the learned Government Advocate, taking written instructions, fairly submitted that till date, no order has been passed.

9.The disciplinary authority has not passed any order which shows that the direction given by this Court dated 17.05.2017 in W.P.No.12740 of 2017 to pass final orders on the pending disciplinary proceedings, within six weeks time has not been complied with. The respondents admittedly have not approached this Court seeking extension of time to pass orders on the pending disciplinary proceedings. When the order passed by this Court has not been complied with, that shows that the respondents are not willing to pass any order on the pending disciplinary proceedings. Therefore, as per the settled legal position, the charge memo dated 07.03.2016, issued against the petitioner containing minor charges are hereby quashed.

10.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

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Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

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Semmandalam, Cuddalore - 607 001.

+1cc to Mr.K.Rajkumar, Advocate Sr.No.17852

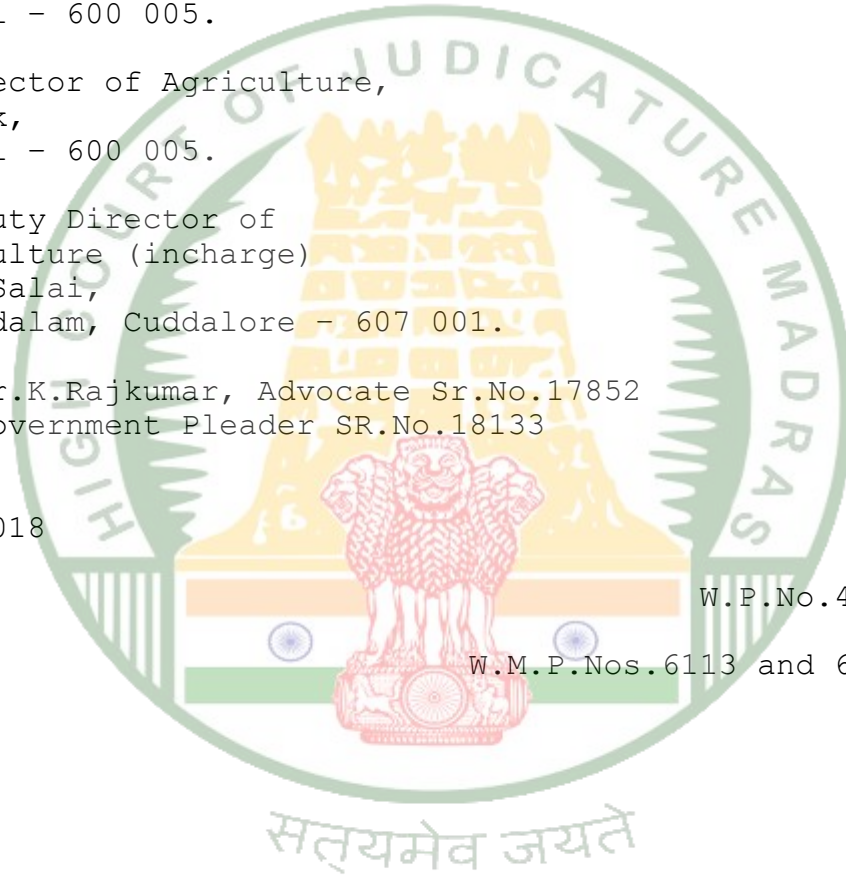
+1cc to Government Pleader SR.No.18133

SR(CO)
sm:23.3.2018

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