

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.200 of 2018
and
C.M.P.No.1495 of 2018

The Agriculture Production Commissioner
and Secretary to Government,
Agriculture Department, Secretariat,
Chennai 600 009. ...Appellant

Versus

L.Saraswathy ...Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters
Patent against the order dated 26.4.2013 passed in W.P.No.18179
of 2010 on the file of this court.

Writ Petition filed under Article 226 of the Constitution of
India, praying for a Writ of certiorari to call for the records
relating to the impugned charge memo Lr.No.18898/VeNi/98-47
dated 07/06/2007 issued to the petitioner by the Agricultural
production Commissioner and Secretary to the Government,
Agriculture Department, Chennai, the respondent herein and quash
the same

For appellant : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For respondent : Mr.P.Wilson, Senior Counsel for
M/s.P.Wilson Associates

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for
the appellant and Mr.P.Wilson, learned Senior Counsel on behalf
of the respondent.

2. The writ appeal has been filed by the State challenging
the order passed by the learned Single Judge in quashing the
charge memo issued against the respondent.

3. It appears that the respondent, employed as Horticulture Officer at Cheranamadevi, Thirunelveli District, was issued with charge memo on 7.6.2007 with regard to some irregularities that had occurred during 1995-96 to the effect that there were some irregularities and creation of false records with regard to distribution of seedlings and she had not supervised the work of her subordinates and scrutinized the records submitted by them. The learned Single Judge, on going through various aspects in a detailed manner, having held that there was inordinate delay at each end of every stage which had not been properly explained, quashed the charge memo by relying upon various decisions on the issue.

4. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that the learned Single Judge has applied the ratio laid down in the decision in P.V.MAHADEVAN v. M.D. TAMILNADU HOUSING BOARD (2005 (4) CTC 403) to the effect that keeping a higher Government Officer under charges of corruption and dispute integrity would cause unbearable mental agony and distress to the officer concerned and therefore, the protracted disciplinary enquiry against a Government employee should be avoided not only in the interest of the Government employee but, in public interest and also in the interest of inspiring confidence in the minds of the Government employees. On applying such ratio, the learned Single Judge has held that the delay in disciplinary proceedings is detrimental to the interest of the delinquent and therefore, quashed the charge memo issued against the petitioner.

5. Further, it is found that the respondent herein was issued with charge memo with the allegations to the effect that while working as Horticulture Officer, Nanguneri, during 1995-96, she had misappropriated and caused loss on different occasions totalling to the tune of Rs.2,00,000/- and odd, by creation of bogus records in the sale and distribution of plants under Western Ghat Development Programme to farmers at subsidy rates and the crux of the allegation against the respondent herein appears to be that she had been negligent in supervising her subordinates.

6. On perusal of the records, we further find that the Department had not properly proceeded against two other persons who had directly involved in the same misconduct. The alleged incidents had taken place during 1995-96 whereas the ordeal of the disciplinary proceedings commenced on 5.7.1999 and considering the inordinate and unexplained delay in completing the disciplinary proceedings, the learned Judge has rightly applied the ratio laid down by the Apex Court in the decision cited above and quashed the charge memo by order dated 26.4.2013. Except the materials found on record, there appears

no cogent evidence available as against the respondent herein. However, it is not in dispute that a substantial amount of loss is said to have been caused to the Department, and it is the case of the Department that it has been caused due to the lack of vigilance on the part of the respondent in supervising her subordinates.

7. Therefore, considering the totality of the circumstances, especially, the inordinate and unexplained delay on the part of the Department in pursuing the matter, we are of the view that instead of allowing the Department to proceed against the official to the detrimental to his interest at the fag end of his career, who had already suffered a lot of mental agony and hardship due to the disciplinary proceedings and the consequent ailments, a proportionate portion of the loss alleged to have been caused to the Department could be recovered from the respondent for the alleged misconduct of non-vigilance on the part of the respondent in supervising her subordinates. However, such recovery does not mean to say that the charges against the respondent are proved or they had been accepted by the respondent. The amount so recovered could be used by the Department to set right the loss caused. Sofar as the quantum of recovery is concerned, since we find that the respondent is one among the three officials involved in the alleged incident, but, however, she is not directly involved and responsible for the financial loss, we direct that 1/6 of the actual loss caused to the Department shall be recovered from the respondent in four equal instalments to be recovered within one year from the date of receipt of a copy of this judgment. Sofar as the rest of the quantum of loss caused to the Department is concerned, it is for the Department to proceed as against the other officials concerned, if so advised. Except the above recovery, we are of the view that no other punishment needs to be imposed upon the respondent after continuing the disciplinary proceedings which had initiated about two decades ago.

8. Accordingly, this writ appeal is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssk

To:

The Agriculture Production Commissioner
and Secretary to Government,
Agriculture Department, Secretariat,
Chennai 600 009.

+1cc to Mr.P.Wilson Associates, S.R.No.36866
+1cc to the Government Pleader, S.R.No. 36597

W.A.No.200 of 2018

PPS (CO)
BM 11/07/2018



WEB COPY