

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.22019 of 2011

Syed Fazalur Rahman

... Petitioner

Vs

1.The Secretary to Government,
Department of Animal Husbandry
Dairy and Fisheries Development,
Secretariat,
Chennai-600 009.

2.The Director of Fisheries,
DMS Office Complex,
Teynampet,
Chennai-600 006.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records of the First Respondent relating to his order in GO (2D) No.20, Animal Husbandry, Milk and Fisheries Department dated 04.03.2010 and the records of the Second Respondent relating to his order in No.Rc.34882/L3/2004 dated 22.05.2008 and quash both the orders and consequently direct the respondents to promote the petitioner to the post of Inspector of Fisheries with effect from the date on which his junior Mr.N.Soundarapandian was promoted, with all monetary and other benefits.

For Petitioner : M/s.P.Anbarasan

For Respondents : Mr.T.M.Pappiah,
Spl. Govt. Pleader

O R D E R

The petitioner has approached this Court, seeking the following relief:-

"To issue a writ of Certiorarified Mandamus, to call for the records of the First Respondent relating

to his order in GO (2D) No.20, Animal Husbandry, Milk and Fisheries Department dated 04.03.2010 and the records of the Second Respondent relating to his order in No.Rc.34882/L3/2004 dated 22.05.2008 and quash both the orders and consequently direct the respondents to promote the petitioner to the post of Inspector of Fisheries with effect from the date on which his junior Mr.N.Soundarapandian was promoted, with all monetary and other benefits. "

2. The petitioner was working as Inspector of Fisheries under the control of the second respondent. While he was working as Special Officer (Incharge) of three Fishermen Co-operative Societies, viz., Poongavanam Fishermen Co-operative Society, Singaravelarkuppam Fishermen Co-operative Society and Kasipuram Fishermen Co-operative Society, certain discrepancies were noticed and therefore, a charge memo was issued vide memo No.M5/34882/2004, dated 25.04.2006.

3. A domestic enquiry was ordered, wherein part of the charge -1 was proved and the charges 2 and 3 were not proved and the other charges 4 and 5 were also held proved. After obtaining explanation from the petitioner, the second respondent, by proceedings, dated 22.05.2008, imposed penalty of stoppage of increment for two years with cumulative effect.

4. As against the order passed by the disciplinary authority, the petitioner preferred an appeal to the first respondent Government on 20.06.2009, with a request to condone the delay in filing the appeal. However, the Government without condoning the delay in filing the appeal, has passed G.O.2D No.20, dated 04.03.2010, rejecting the petition on the ground that there was no proper explanation seeking condonation of delay.

5. The petitioner is therefore before this Court assailing the orders passed by the disciplinary authority as well as the appellate authority. When the matter is taken up for hearing, the learned counsel for the petitioner would submit that the delay in filing the appeal to the first respondent may be condoned and the first respondent may be directed to dispose of the appeal preferred by the petitioner in accordance with law. Since the direction which is being sought by the learned counsel for the petitioner is limited in its scope, the learned Special Government Pleader appearing for the first respondent would have no valid objection for such direction being issued.

6. In view of the above, the first respondent is directed to dispose of the appeal submitted by the petitioner against the order of the second respondent/Disciplinary Authority, dated 22.05.2008, imposing the penalty of stoppage of increment for two years with cumulative effect, on merits and in accordance

with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Department of Animal Husbandry
Dairy and Fisheries Development,
Secretariat,
Chennai-600 009.

2.The Director of Fisheries,
DMS Office Complex,
Teynampet,
Chennai-600 006.

+1cc to Mr.P.Anbarasan, Advocate SR.No.1122
+1cc to Government Pleader SR.No.11736

W.P.No.22019 of 2011

GN(20/03/2018)

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