



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.24130 of 2017

and

W.M.P. (MD) .Nos.20254 and 20255 of 2017

T.Ramasamy

... Petitioner

Vs.

1.The Director of Agriculture,
O/O.Director of Agriculture,
Chepauk, Chennai-600 005.

2.The Joint Director of Agriculture,
Tirunelveli District.

3.N.John Viju Prakash

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records, pertaining to the impugned letter, vide No.A1150/2017 dated 28.11.2017, sent by the third respondent and the enquiry report with letter No.PA.O.NA.2/1/32376/2013) dated 14.11.2017, sent by the first respondent as not valid under law and to quash the same as void illegal and thereby directing the respondents, to grant this petitioner, all the retirement benefits and full pension with arrears.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.M.Alaguthevan for R1 to R3
Special Government Pleader

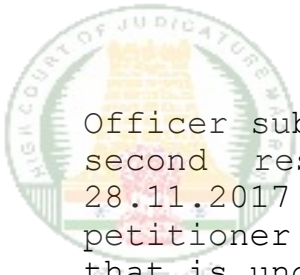
ORDER

Mr.M.Alaguthevan, learned Special Government Pleader, takes notice for the respondents.

2.Heard the learned counsel on either side.

3.By consent of both the parties, the main writ petition is taken up for disposal at the stage of admission itself.

4.The petitioner herein was working as an Agricultural Officer. He reached the age of superannuation on 31.03.2016. He was permitted to retire without prejudice to the pendency of the disciplinary action initiated against him. The disciplinary authority issued charge memo dated 27.01.2016 against on the petitioner. Enquiry was conducted. Subsequently, the Enquiry



Officer submitted a report holding that the charges are proved. The second respondent herein by the impugned communication dated 28.11.2017 had enclosed the said enquiry report and called upon the petitioner to offer his further representation there on. It is this that is under challenge in this appeal.

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5. As held by the Hon'ble Supreme Court in the decision reported in 2001 (1) SCC 416 (*High Court of Judicature at Bombay Vs. Shashikant S. Patil and another*), any enquiry is primarily intended to afford the delinquent officer a reasonable opportunity to meet the charges made against him and also to afford the punishing authority with the materials collected in such inquiry as well as the view expressed by the Inquiry Officer thereon. The findings of the Enquiry Officer are only his opinion on the materials, but such findings are not binding on the disciplinary authority as the decision making authority is the punishing authority and, therefore, that authority can come to its own conclusion, of course bearing in mind the views expressed by the Enquiry Officer. Therefore, at this stage, this writ petition is not maintainable. The Writ Petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petitions are closed.

7. It is seen that by the impugned communication dated 28.11.2017, the petitioner was given 15 days to offer his further representation. The said period has since elapsed. Therefore, the petitioner is given time till 31.01.2018 to offer his further representation on the enquiry report that was enclosed with the impugned communication.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To

1. The Director of Agriculture,
O/O. Director of Agriculture,
Chepauk, Chennai-600 005.

2. The Joint Director of Agriculture,
Tirunelveli District.

+One cc to Mr. F. X. Eugene, Advocate, SR.No.40291
+One cc to The Special Government Pleader, SR.No.40538
tsg
RL/5C/2P/KKR/SAR1/2/2/2018

W.P. (MD) No.24130 of 2017