

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Review Application No.151 of 2019
in
W.A.No.705 of 2018

- 1.State of Tamil Nadu,
Rep, by its Secretary to Government,
Department of Agriculture,
Fort St. George, Chennai-600 009.
- 2.Director of Agriculture,
Chepauk, Chennai-5.
- 3.Additional Director of Agriculture,
(Personnel Management),
Chepauk, Chennai-600 005.
- 4.Joint Director of Agriculture,
Lawley Road,
Coimbatore-641 013. .. Applicants/Respondents 1 to 4
-vs-

- 1.B.Ramesh, Agricultural Officer,
O/o The Assistant Director of Agriculture,
(Pollachi South), Pollachi-642 011. .. Respondent/Appellant
- 2.M.Mahalingam,
(Retd., employee, Agriculture Department),
240.C, Chavadi Street, Ramapuram Pudur,
Namakkal-647 001.
- 3.Inspector, Cyber Crime - Cell,
Coimbatore City Police,
Coimbatore. .. Respondents/Respondents 5 & 6

Review under Order 47 Rules 1 and 2 read with Section 114
of Code of Civil Procedure to review the judgment dated
28.08.2018 made in W.A.No.705 of 2018.

Prayer in WP.39249/2015:

The Writ Petition filed under Article 226 of the Constitution of India, calling for the records pertaining to the impugned charge memo issued in ref. No.DCS1/(1)/ 39874/2015-1 dated 3.8.2015 by the 3rd respondent.

For Applicants : Mr.P.S.Siva Shanmuga Sundaram,
Special Government Pleader

For Respondent-1: Mr.V.Chokalingam

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

This review application has been filed by the State of Tamil Nadu, represented by the Secretary to Government, Department of Agriculture and three others to review the judgment and order dated 28.08.2018, passed in W.A.No.705 of 2018.

2.It appears that the reason for filing this review application is on the ground that the 1st respondent/appellant has filed Contempt Petition No.808 of 2019 stating that the applicants herein are keeping silent without taking any action in spite of five months having lapsed, after the judgment and order was passed and received by the review applicants/respondents 1 to 4.

3.The first hurdle the review applicants have to cross, is to point out any error which is apparent on the face of the judgment warranting interference exercising review jurisdiction.

4.The learned Special Government Pleader would submit that the review applicants are aggrieved by the direction issued in paragraph 9 of the judgment. However, we find that paragraph 9 should not be read in isolation, but should be read along with paragraph nos.7 and 8. For better appreciation, we quote paragraph nos.7, 8 and 9 as hereunder:-

"7.Anyhow, overall considering the facts and circumstances of this matter and the decisions cited supra, we are of the view that though the issue involved in those cases and the present case is one and the same, in the present case on hand,

it appears that the appellant has already submitted his explanation for the said charge memo. Under the above circumstances, as held by the learned Single Judge, it is for the writ petitioner to submit his explanation/objections before the competent authority and prove his innocence in the enquiry proceedings.

8. At this stage, the learned counsel appearing for the appellant submitted that when the appellant was acquitted in the criminal case for the same set of charges, there is no question of readmitting the same. However, without prejudice to his right, he is ready to tender apology, if the charges levelled against him are ordered to be dropped.

9. Accordingly, we are of the view that on tendering the Letter of Apology by the appellant without prejudice to his right before the concerned respondent authorities, the respondent authorities can drop the charges against the appellant and close the matter. We hereby made it clear that any other benefits for which he is entitled to, the same shall be extended to him and if any promotional benefits are withheld during the particular period, the same may also be released in favour of the appellant."

5. On a conjoint reading of the above paragraphs, it is evidently clear that the Court upheld the view taking by the learned Single Judge wherein, direction was issued to the 1st respondent/appellant to submit his objections/explanation before the competent authority and prove his innocence in the enquiry proceedings.

6. In our considered view, the observations in paragraph 9, at best, can be taken to be recommendatory and there can be no positive direction compelling the review applicants to drop the disciplinary proceedings initiated against the 1st respondent/appellant. Therefore, it is well open to the 1st respondent/appellant to submit his objections/explanation to the charge memo and prove his innocence in the enquiry proceedings. Therefore, we are of the view that the judgment and order passed in W.A.No.705 of 2018, dated 28.08.2018, is clear and we make it further clear that the applicants herein cannot be directed or compelled to drop the disciplinary proceedings initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeals) Rules.

7.With the above clarification, this review application stands dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

1. The Secretary to Government of Tamil Nadu,
Department of Agriculture,
Fort St. George, Chennai-600 009.
2. The Director of Agriculture,
Chepauk, Chennai-5.
3. The Joint Director of Agriculture,
Lawley Road,
Coimbatore-641 013.
4. Additional Director of Agriculture,
(Personnel Management),
Chepauk, Chennai-600 005.
5. The Inspector, Cyber Crime - Cell,
Coimbatore City Police,
Coimbatore.
6. Agricultural Officer,
O/o The Assistant Director of Agriculture,
(Pollachi South), Pollachi-642 011.

+1cc to Mr.V.Chokalingham, Advocate sr.65129(08/08/2019)

Rev.Appl.No.151 of 2019
in W.A.No.705 of 2018

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nr 06/08/2019