

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.17955 of 2010

K.Nagarajan

...Petitioner

Versus

1.The State of Tamil Nadu
Through its Secretary to Government,
Department of Agriculture,
Secretariat, Chennai.

2.The Commissioner of Agriculture,
Chepauk, Chennai.

3.The Joint Director of Agriculture,
Nagapattinam.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent bearing G.O.Ms.(3D) No.84, dated 22.3.2007 and quash the same and consequently, direct the first respondent to pay all consequential benefits to the petitioner by regularizing the period of absence as per rules.

For Petitioner : Mr.K.Balaji

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

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O R D E R

This instant writ petition has been filed to quash the order of the first respondent bearing G.O.Ms.(3D) No.84, dated 22.3.2007 and seeking a direction to the first respondent to pay all consequential benefits to the petitioner by regularizing the period of absence as per rules.

2. It is the case of the petitioner that he was appointed as an agricultural officer in the year 1967 and he was working in the said Department till 23.08.1973. The petitioner further states that his father, and his son passed away, which affected him mentally and therefore, he took leave from 23.08.1973 to 23.06.1974. He states that leave was sanctioned by the Department. He states that after 23.06.1974, he has suffering from Amnesia and therefore, he could neither report back to duty nor make any application for grant of leave. He further states that he has taken treatment for Amnesia under the advice of the medical officer, Government Hospital, Sirkali. He states that because of the treatment, he could not give an application for grant of leave. The petitioner further states that a charge memo was issued to him in the year 1994, for unauthorised absence from 24.6.1974. The petitioner states that he has given explanation to the respondents for the aforesaid absence. The petitioner states that the enquiry was conducted only after five years of issuance of charge memo. The petitioner wants to attain age of superannuation on 30.06.2003, but, he was placed under suspension on 24.06.2003, due to which, he was not permitted to retire from service. The enquiry was completed on 22.03.2007 and a punishment of removal from service was passed against him. Challenging the order dated 22.03.2007, the instant writ petition has been filed.

3. The respondents filed a counter affidavit stating that the petitioner has not produced any medical certificate to substantiate that the petitioner was suffering from Amnesia. It is submitted that in the absence of any medical certificate, the contention of the petitioner cannot be accepted. It is further stated that family members of the petitioner would have informed the Department about the absence had the contention of the petitioner been true.

4. Heard the learned counsel for the parties and perused the materials on record.

5. No doubt the enquiry was conducted only after five years. That itself cannot be a reason to quash the entire enquiry proceedings. No prejudice has been caused to the petitioner due to delay in conduct of the enquiry. The petitioner did not join duty for 25 years and there is no reason forth coming from the petitioner as to why he did not join duty. Merely stating that he was having Amnesia cannot be a valid reason and that to when there is no medical certificate to substantiate the same.

6. This Court is of the opinion that there is no infirmity in the order impugned in this writ petition dated 22.3.2007. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Department of Agriculture,
Secretariat, Chennai.
- 2.The Commissioner of Agriculture,
Chepauk, Chennai.
- 3.The Joint Director of Agriculture,
Nagapattinam.

+1cc to M/s.K.Balaji, Advocate Sr.85230
+1cc to the Government Pleader Sr.85104

W.P.No.17955 of 2010

rsv[co]
srg 15/11/2019

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