

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No. 1852 of 2019
&
C.M.P.No.12523 of 2019

- 1.State of Tamil Nadu
Rep. by its Secretary
Animal Husbandry, Dairying and
Fisheries Department,
Fort St. George, Chennai - 600 009.
 - 2.The Director of Animal Husbandry and
Veterinary Services,
Veterinary Poly Clinic Campus,
571, Anna Salai, Nandanam,
Chennai - 600 035.
 - 3.The Regional Joint Director,
Animal Husbandry Department, Rameswaram,
Ramanathapuram District.
 - 4.The Assistant Director,
Animal Husbandry Department,
Rameswaram
Ramanathapuram District.
- Appellants/Respondents

-vs-

Dr.P.Radha

..... Respondent/Petitioner

Write Appeal filed under Clause 15 of Letter Patent against the order in W.P.No.31770 of 2018 dated 07.12.2018 on the file of the High Court of Judicature at Madras.

WP.NO.31770/2018:

Petition filed under Article 226 of the Constitution of India, may be pleased to calling for the records of the first respondent in relation to the impugned letter No. 19417/AH1/2015-21 dated 15.6.2017 quash the same and consequently direct the respondents to reinstate the petitioner in any non-sensitive post as per the judgement of the Honourable Supreme court in the case of Ajay Kumar choudhary and Pramod Kumar and followed by the Division Bench of this Honourable court in W.A.No. 613 of 2017 and further direct the respondents to pay the petitioner the arrears of subsistence allowance from the month of February 2014 at the rate of 75 percentage.

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondent : Ms.Dakshiyani Reddy
for M/s.P.Nethaji

J U D G E M E N T

[Judgment of the Court was delivered by P.T.ASHA,J.]

The above Intra-Court Appeal is filed by Animal Husbandry, Dairying and Fisheries Department and Veterinary Services challenging the order passed in W.P.No.31770 of 2018 in and by which they have been directed to revoke the suspension order of the respondent herein dated 15.06.2017 and reinstate her in service by posting her in any non-sensitive post within a period of eight weeks from the date of receipt of a copy of the order. The arrears of subsistence allowance is also directed to be paid within the said period. The facts in brief necessary for disposing of the Writ Appeal are as follows:

2.The respondent herein was originally appointed as a Veterinary Assistant Surgeon at the Veterinary Dispensary, Rameswaram in the year 2012. One of the duties that was entrusted to her was the proper and due implementation of the various welfare schemes introduced by the Government. The schemes relevant for the present case reads as follows:

"a)Distribution of Chaff Cutter at Subsidized rate.

b)Distribution of Fodder Crop Seeds under the Accelerated Fodder Development Program (SFDS & AFDP)

c)Distribution of CO3 Grass."

3.It is the respondent's case that one Mr.Ahamed Jalaludeen had asked for a Chaff Cutter and Fodder Crop Seeds under the SFDS & AFDP and his step mother, Noornisha Begam had requested for the CO3 Grass. The respondent as per procedure had forwarded the said request to the office of the Assistant Director of Animal Husbandry Department, the 4th appellant. The schemes contemplated a training programme being offered to the beneficiaries and the said Ahamad Jalaludeen had attended the said training programme where he became aware of the subsidy being offered for the Chaff Cutter welfare scheme. He therefore registered his name for the said scheme.

4.Under the scheme the entire cost of programme was a sum of Rs.18,048/-. The Government offered a subsidy of Rs.13,162/- and the beneficiaries were to bear the balance sum of Rs.5,246/-. The respondent herein had asked the said Ahamad Jalaludeen to remit the payment as instructed by the 4th appellant in order to receive the Chaff Cutter.

5.The Government had released a portion of the subsidiary namely a sum of Rs.3,450/- to him and considering the fact that Ahamad Jalaludeen had not paid his share, the respondent instructed him to encash the cheque issued by the Government and pay a sum of Rs.3,000/- towards the part of the subsidy that was payable by him. The said Ahamad Jalaludeen agreed to the same. Thereafter, within a period of two weeks another cheque of Rs.5,600/- was issued to Noornisha Begam. The respondent once again requested Ahamad Jalaludeen to encash the cheque and pay his contribution towards the subsidized Chaff Cutter.

6.On 03.07.2013, the said Ahamad Jalaludeen came with a sum of R.3,000/- to the respondent's office and gave it to her. In the mistaken impression that the said sum was towards the subsidy, the respondent received the same and kept it in her Table Drawer. Immediately officials of the Vigilance Department swooped on her and arrested her on charges of accepting bribe. The respondent's explanation was not accepted and she was kept in custody for 2 days.

7.It is submitted that since she had been in custody for 48 hours, invoking the provisions of Rule 17 (2) (e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, she was placed under suspension on 09.07.2013. The respondent's request to revoke the suspension did not yield the desired result and she had filed a Writ Petition before Madurai Bench of this Court in W.P.(MD)No.73 of 2014. This Court directed the appellants to consider the representation. However, the 1st appellant had rejected the request of the respondent.

8.Challenging this rejection the respondent had filed W.P.No.(MD) 15494 of 2015. By order dated 27.08.2015, this Court was pleased to allow the Writ Petition with a specific finding that the Rule 17 (3) (6) itself provides for revocation of suspension and for setting aside the impugned order with direction to the appellants to reconsider her suspension.

9.Meanwhile, in the year 2014, a Charge Sheet was filed and thereafter from the records it is evident that the same had not progressed at all. In fact the endorsement in respect of the hearing date 04.06.2019 is that the matter is awaiting service. The appellants did not consider the case of the respondent despite a positive order being given by this Court. The request was rejected by order dated 15.06.2017 on the ground that there is a criminal case pending against her. The respondent therefore filed the Writ Petition which is the subject matter of this Appeal seeking to quash the letter dated 15.06.2017 of the 1st appellant and direct them to reinstate her to a non-sensitive post besides direction to the appellants to pay the arrears of subsistence allowance from 2014.

10.This Court by order dated 07.12.2018, taking note of the fact that not even a single witness had appeared in the criminal case and applying the ratio of the decision by the Honourable Supreme Court in the case of Ajay Kumar Choudhary Vs. Union of India - (2015) 7 SCC 291 allowed the Writ Petition. Aggrieved by this order the appellants are before this Court.

11.From a perusal of the records it is seen that though the criminal case, namely, C.C.No.165 of 2014 had been filed as early as on 16.12.2014, the said case has not progressed and not even a single witness has been examined till date. The learned counsel appearing for the respondent on instructions would submit that the case is now posted on 25.07.2019. It is also submitted that to date no Departmental enquiry has been initiated against the respondent herein.

12.In these circumstances, we do not find any justification to interfere with the order passed by the learned Single Judge. Consequently, the Writ Appeal is dismissed with a direction to the appellants to reinstate the respondent in service within a period of four weeks from the date of receipt of a copy of the Judgement and pay her arrears of subsistence allowance as

directed by the learned Single Judge. There shall be no order as to cost. Consequently, connected Civil Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary
Animal Husbandry, Dairying and
Fisheries Department,
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- 4.The Assistant Director,
Animal Husbandry Department,
Rameswaram
Ramanathapuram District.

+1cc to Mr.P.Nethaji, Advocate sr.33440
+1cc to Government Pleader sr.no.54105

sj(co)
nr 19/07/19

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