IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.3170 of 2014

P.Chidambaram,
Deputy Agricultural Officer (Retd.),
Door No.54, V.O.C.Street,
Sivagangai - 630 561,
Sivagangai District. ... Petitioner

Vs.

1.The Secretary to Government,
Agricultural Production and Commissioner,
Agricultural Department,
Fort St.George, Chennai-9.

2.The Director of Agriculture,
Chepauk, Chennai-5.

3.The Joint Director of Agriculture,
Sivagangai.

4.The Accountant General Officer (A&E),
Teynampet, Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Government Letter No.14629/ViNi4 (2)/2013-9, dated 29.11.2013 issued by the 1st respondent the Secretary to Government, Agricultural Production and Commissioner, Agricultural Department, Fort St.George, Chennai-9 in rejecting to disburse the DCRG of the Petitioner, quash the same and direct the respondents to disburse the DCRG amount of Rs.2,23,664/- with interest @ 12% within short date that may be fixed by Hon'ble High Court.

For Petitioner : Ms.G.Sridevi

For Respondents : Mr.V.Shanmuga Sundar for RR1 to 3
Special Government Pleader

ORDER

The writ petition has been filed by the petitioner to quash the Government Letter No.14629/ViNi4 (2)/2013-9, dated 29.11.2013 issued by the 1st respondent/Secretary to Government, Agricultural Production and Commissioner, Agricultural Department, Fort St.George, Chennai-9 and direct the respondents to disburse the DCRG amount of Rs.2,23,664/- with interest @ 12% within short date that may be fixed by this Court.

2.According to the learned counsel for the petitioner, the petitioner challenging the proceedings of the Block Development Officer, Sivagangai, in ordering recovery of a sum of Rs.2,23,664/-, the petitioner filed an Original Application No.5362 of 2001, before the Tamil Nadu Administrative Tribunal, Chennai and there was no progress in the Original Application. As the Department was likely to prevent the petitioner from retiring on attaining the age of Superannuation on 31.07.2004, he filed a writ petition in W.P.No.19302 of 2014 before this Court seeking to direct the respondents to permit him to retire from service on reaching the age of superannuation with all consequential retirement benefits.

3.According to the learned counsel for the petitioner, this Court by its order dated 09.07.2004, issued the following directions:

> "if there is no other claim or charge against the petitioner except the one passed under the proceedings dated 6.7.2001 in R.O.C.No.2727/2000, on the file of the third respondent, the petitioner shall be allowed to retire on attaining the age of superannuation subject to the condition that the third respondent can withhold sum of Rs.2,23,664/- without prejudice to the rights of the petitioner in O.A.No.5362 of 2001, on the file of the Tamil Nadu Administrative Tribunal. Depending upon the outcome of the proceedings initiated by the petitioner before the Tamil Nadu Administrative Tribunal, the question of disbursing the amount directed by this Court to be withheld by the third respondent can be taken for decision".

3.Pursuant to the aforesaid order, the petitioner was permitted to retire from service on condition of retaining a sum Rs.2,23,664/-. Subsequently, the Original Application which was transferred to this Court and renumbered as Writ Petition No.16692 of 2006 came before this Court and by an order dated 24.11.2011, this Court quashed the order of the recovery proceedings and directed the first respondent to decide the matter afresh, within a period of 12 weeks from the date of receipt of the order.

4.According to the petitioner, the first respondent namely, the Block Development Officer has passed an order pursuant to the order passed by this Court. However, the petitioner relied upon the reply Letter No.Na.Ka.B1/2727/2000 dated 10.12.2012, addressed to the counsel for the petitioner wherein, it has been stated that the withholding of the DCRG amount is only at the instruction of the parental Department, i.e. Agricultural Department. Pursuant to the said order, there is no other disciplinary proceedings pending as against the petitioner. Pursuant to the earlier order dated 24.11.2011, the first respondent Block Development Officer has not passed any order. Therefore, on the date of passing Government order No.Vi A Ni2/101799/04 dated 30.07.2004, permitting the petitioner to retire on attaining the age of superannuation retaining a sum of Rs.2,23,664/- by getting undertaking that the aforesaid DCRG amount of Rs.2,23,664/- shall be withhold and the said recovery proceedings was quashed by an order of this Court, there is no other proceedings pending against the petitioner.

5.The learned Special Government Pleader would submit that a counter has been filed and it is stated that pursuant to the order in W.P.No.10880 of 2013 dated 18.04.2013, the first respondent had prepared to conduct fresh enquiry against the petitioner. Therefore, a notice was issued by the first respondent vide Government Letter No.14629/Ve.Ni4(2)/2013-8 dated 22.11.2013, thereby the petitioner was called to appear for enquiry to be held on 27.11.2013 but the petitioner had not appeared before the first respondent herein. Hence, the impugned final order was passed on 29.11.2013, withholding the amount of Rs.2,23,664/- as per the undertaking consent letter dated 22.02.2013, sent by the petitioner to withhold the DCRG amount sum of Rs.2,23,664/-.

6.According to the learned Special Government Pleader, pursuant to the order passed by this Court, the Block Development Officer, Sivagangai, has to pass an order and no communication has been received from the Block Development Officer. Therefore, the petitioner is not entitled for the relief as claimed in the writ petition.

7.Further, he submitted that on the basis of the Audit objection, the said amount was not paid to the petitioner. Earlier recovery proceedings against the petitioner was initiated when the petitioner was in service and the same was pending. Therefore, the petitioner was not permitted to retire from the service. Pursuant to the consent given by the petitioner for withholding DCRG amount of Rs.2,23,664/-, the petitioner was permitted to retire from service.

8.According to the learned counsel for the petitioner, the said recovery proceedings was quashed by this Court by an order dated 24.11.2011 and directed the Block Development Officer, to consider and pass an order. The petitioner also relied upon the reply from the Block Development Officer by informing that DCRG amount is withheld at the instruction of parental Department, namely, the Agricultural Department. Therefore, the aforesaid contention of the Special Government Pleader cannot be accepted.

9.He further submitted that Audit objection was made for the loss sustained in the year 1993 - 1994 for which the recovery proceedings initiated in the year 2001 and subsequently, the same was quashed. Therefore, as on date nothing is pending against the petitioner.

10.By considering from any angle, this Court has no hesitation to hold that the respondents cannot have the right to withhold the said DCRG amount, after the order passed by this Court in Writ Petition No.16692 of 2016 dated 22.04.2011, and subsequently, no order has been passed by the first respondent. Hence, this Court has no hesitation to quash the impugned proceedings and direct the first respondent to settle the DCRG amount along with 9% interest from the date of superannuation till the payment of the said amount, within a period of four months from the date of receipt of a copy of this order.

11.With the above observations and directions, the writ petition is allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Agricultural Production and Commissioner,
Agricultural Department,
Fort St.George, Chennai-9.

2.The Director of Agriculture,
Chepauk, Chennai-5.

3.The Joint Director of Agriculture,
Sivagangai.

4.The Accountant General Officer (A&E),
Teynampet, Chennai.

+1cc to Mr.S.Balaji, Advocate sr.23519
+1cc to Mr.G.Sridevi, Advocate sr.23501
+1cc to the Government Pleader Sr.24231, 24708

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