

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25458 of 2019
and
W.M.P.No.24988 of 2019

S.Prakash

... Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Chief Secretary,
Agriculture Department,
Fort St.George, Chennai-600 009.
 2. The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture (AA8) Department,
Secretariat, Fort St.George,
Chennai-600 009.
 3. The Chief Engineer (Agricultural Engineering),
Nandanam, Chennai-600 005.
- Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the notice in letter No.13402/VN8/2010-25 dated 14.03.2019 of the 2nd Respondent herein and quash the same.

For Petitioner : Mrs.AL.Ganthimathi

For Respondents: Mrs.R.Janaki
Additional Government Pleader

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari to call for the records relating to the notice in letter No.13402/VN8/2010-25 dated 14.03.2019 of the 2nd Respondent herein and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader.

3. The case of the petitioner is that the petitioner was an Assistant Engineer at Erode Sub-Division Office. On 07.10.2003, the Government of Tamil Nadu issued a Government Order in G.O.Ms.No.434 through which certain amount was sanctioned for the purposes of implementing drip and sprinkler irrigation system. Cost was prescribed based on crop type. Accordingly, the Chief Engineer (Agricultural Engineering) as the implementing Agency and a certain amount was allocated per region. The following protocol was also prescribed:

Procedure for disbursement:

i) Application for installation has to be submitted to the AEE.

ii) The AEE shall verify and scrutinize all relevant records through AE/SOs.

iii) To verify whether either 75% or 100% of the amount has been paid by the farmer to the company of his choice and accordingly place the word order for installation.

iv) After installation the AE/SOs have to inspect particulars and record the measurements in 'M' book.

v) The AEE has to prepare the bill for the 25% subsidy in the name of the approved company which installed the system and pay the same vide a Demand Draft.

The petitioner being an AEE in Erode Sub-Division Office was a part of the implementation system.

4. It appears that a complaint was registered by the Vigilance and Anti Corruption Department, Erode against the petitioner and five other Engineers due to allegations of irregularities and consequently, for the offences under Sections 120B, 167, 409, 420, 467, 471, 477A, 109 IPC r/w. Section 13 of the Prevention of Corruption Act, 1988.

5. On 25.07.2011 TDP Case No.18/2011 was lodged and charges were framed after a period of 7 years from the alleged date of occurrence stating that the petitioner has executed implementation of sprinkler systems of 19 farmers/beneficiaries and out of which 11 systems were not installed properly causing a financial loss of Rs.59,329/- and as such violated Rule 20(1) of the Tamil Nadu Government Servant Conduct Rules, 1973. The petitioner had also submitted his explanation as called for.

6. Since the petitioner was due for retirement he had made a representation to the respondent for permission to retire from service and continue disciplinary proceedings under Rule 9 of the Tamil Nadu Pension Rules, 1978 and the same was not considered. The petitioner had filed W.P.No.42736 of 2016 for direction to consider the said representation and the same was disposed of with a direction to consider the representation of the petitioner dated 14.11.2016 on merits and in accordance with law.

7. The petitioner was permitted to retire from service vide G.O.Ms.3D No.63.

8. The 2nd respondent informed the petitioner that the Tribunal had conducted the enquiry and submitted its findings holding that the charges framed against the petitioner is not proved, however, the report of the CDP indicate that the Government had incurred losses in the release of the subsidy and there are monetary advantages to the accused officers hence, it has been presumed that the charges are proved against the petitioner due to the same and explanation was called for. The report of the Tribunal was not sent to the petitioner. However, the petitioner submitted appropriate explanation immediately.

9. On receipt of the said explanation dated 14.03.2019, the 2nd respondent without considering the points raised therein mechanically found that the charges against the petitioner stands proved and it is proposed a punishment of recovery of a sum of Rs.17,850/- from the monthly pension of the petitioner permanently and further recovery of a sum of Rs.28,644.50 towards loss incurred by the Government from the Gratuity amount to which explanation was also called for.

10. On 11.04.2019, the petitioner submitted his detailed explanation to the same, however, the Government has not passed any final order and the petitioner's retirement benefits have also not been allowed. Due to the pendency of these proceedings, pension has not been released till date. Hence, the petitioner has filed this writ petition.

11. The petitioner's explanation dated 14.03.2019, the 2nd respondent without considering the points raised therein mechanically found that the charges against the petitioner stands proved and it is proposed a punishment of recovery of a sum of Rs.17,850/- from the monthly pension of the petitioner permanently and further recovery of a sum of Rs.28,664.50 towards loss incurred by the Government from the Gratuity amount to which explanation was also called for. Further, on 11.04.2019, the petitioner submitted his detailed explanation to the same, however, the Government has not passed any final order and the petitioner's retirement benefits have also not been allowed. Due to the pendency of these proceedings, pension has not been released till date and there was no response, however, till date, his representation was not considered and enquiry was not concluded and due to the pendency of these proceedings, pension has not been released till date.

12. The learned counsel appearing for the petitioner would submit that it would suffice, if this Court issues direction to

the respondents to consider the petitioner's representation and pass appropriate orders, within the time frame fixed by this Court.

13. Considering the facts and circumstances of the case and since the explanation given by the petitioner is not considered till date, I am inclined to issue a direction to the 2nd respondent to consider the petitioner's representation with acknowledgement dated 11.04.2019 and pass appropriate orders on merits and in accordance with law within a period of three weeks from the date of receipt of a copy of this order.

14. The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Chief Secretary,
Government of Tamil Nadu,
Agriculture Department,
Fort St.George, Chennai-600 009.
2. The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture (AA8) Department,
Secretariat, Fort St.George,
Chennai-600 009.
3. The Chief Engineer (Agricultural Engineering),
Nandanam, Chennai-600 005.

+1cc to Mr.AL.Ganthimathi, Advocate, S.R.No. 77999
+1cc to the Government Pleader, S.R.No. 78426

W.P.No.25458 of 2019
and
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SPD(CO)
GN(12/11/2019)