

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 22587 of 2017

G.Guhan

... Petitioner

Vs

1. The Principal Secretary to Government
Government of Tamil Nadu,
Agriculture Department,
Fort St.Geroge,
Chennai-9.

2. The Director
Agriculture Department
Government of Tamilnadu,
Chepauk, Chennai-5.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in connection with G.O. (3D) No.22 Agriculture (Vi.Ni.5) Department dated 23.01.2017 and quash the same and consequently, direct the respondents to promote the petitioner on par with his juniors with all service and monetary benefits.

For Petitioner : M/s.T.Aananthi

For Respondents : Mr.J.Ramesh, AGP

O R D E R

The prayer sought for in the Writ Petition is to call for the records on the file of the 2nd respondent in connection with G.O. (3D) No.22 Agriculture (Vi.Ni.5) Department dated 23.01.2017 and quash the same and consequently direct the respondents to promote the petitioner on par with his juniors with all service and monetary benefits.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the documents available on records.

3. The learned counsel for the petitioner submitted that the writ petitioner was appointed as Junior Assistant on Junior Assistant on 11.09.1991 at the office of the Joint Director of Agriculture Trichy. Disciplinary proceedings u/s 17(b) of Tamil Nadu (Discipline & Appeal) Rules were initiated against the petitioner by the Assistant Director of Horticulture (Farm), Kudimiyamalai and framed charges against the petitioner for the misappropriation of sum of Rs.5,000/- and non deposit of the said amount on 03.03.1999. For the aforesaid charges the petitioner has submitted explanation. In spite of his pleading ignorance and for beyond any motive, the enquiry officer held the charges proved and imposed punishment. According to the petitioner, the aforesaid amount has been remitted on 19.05.2001. Despite the fact that the aforesaid amount has been remitted, the respondent framed charges against the petitioner for the alleged misappropriation of the aforesaid amount.

4. The learned counsel further submitted that the enquiry was conducted by the enquiry officer. The writ petitioner made explanation to the charges but the said explanation was not duly considered. Subsequently, the writ petitioner was imposed stoppage of increment for three years with cumulative effect by order dated 29.12.2005. Challenging the said order dated 29.12.2005, the writ petitioner preferred appeal and the Appellate Authority/ 2nd respondent has confirmed the said punishment by order dated 22.06.2012. Then the petitioner filed a review petition to the 1st respondent on 27.02.2006. Based on the aforesaid petition, the 1st respondent passed the impugned order dated 23.01.2017 by modifying the order of punishment as stoppage of increment for three years without cumulative effect. Challenging the same, the present writ petition is filed.

5. The learned counsel for the petitioner submitted that the writ petitioner had made detailed submissions to the enquiry officer as well as Disciplinary Authority that the aforesaid alleged misappropriation amount of Rs.5,000/- was remitted to the respondent and there is intention of the petitioner to misappropriate the same amount. Further the writ petitioner had bonafidely believed the daily wages employee and instructed him to deposit the said amount in the Bank to comply the tender conditions. Without considering the explanations given by the petitioner, the Enquiry officer held charges proved against the petitioner and the Disciplinary Authority also confirmed the same.

6. On the other hand, the learned Additional Government Pleader submitted that the petitioner had misappropriated the Government money of Rs.5,000/- and the amount should have been remitted in the Government account. However, he created forged

challan as if it was remitted in the State Bank of India on 03.03.1999. For the said allegation disciplinary action was initiated against the petitioner under Rule 17(b) of Tamil Nadu Civil Services (Disciplinary & Appeal) Rules by the Assistant Director of Horticulture (Farm), Kudimiyanmalai and charges were also framed. Since the charges were held proved, he was imposed with the punishment of stoppage of increment for 3 years with cumulative effect.

7. The learned Additional Government Pleader further submitted that due to pendency of disciplinary proceedings, his name was not included in the panel list and after completion of enquiry, he was promoted in the year 2010. Subsequently, the petitioner challenged the order dated 29.12.2005 on the ground of jurisdiction by filing appeal and review, hence the delay occurred in passing impugned order in the year 2017. Therefore, there is no violation on the part of the respondents as argued by the learned counsel for the petitioner.

8. Admittedly, the petitioner was imposed with the punishment. On a perusal of records, it is clearly seen that 1st respondent/Government after considering the 15 years of service rendered by the petitioner in the department, had modified the said order passed by the Disciplinary Authority as three years without cumulative effect. Further, with regard to the stand taken by the writ petitioner in his explanation that he had handed over the alleged sum of Rs.5000/- to the NMR staff and asked him deposit the same in the bank, he has not stated the name of the said NMR staff to whom he given the said amount. Hence, by observing all these aspects, the authorities concerned, have rejected the explanation submitted by the writ petitioner. Even though the charges are very much proved by evidence and records, the Government have considered the representation made by the petitioner and after obtaining the views of Tamil Nadu Public Service Commission, modified the punishment awarded to the petitioner. Therefore, this Court finds no merits to entertain the writ petition.

9. In the result, the writ petition stands dismissed . No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ak

To

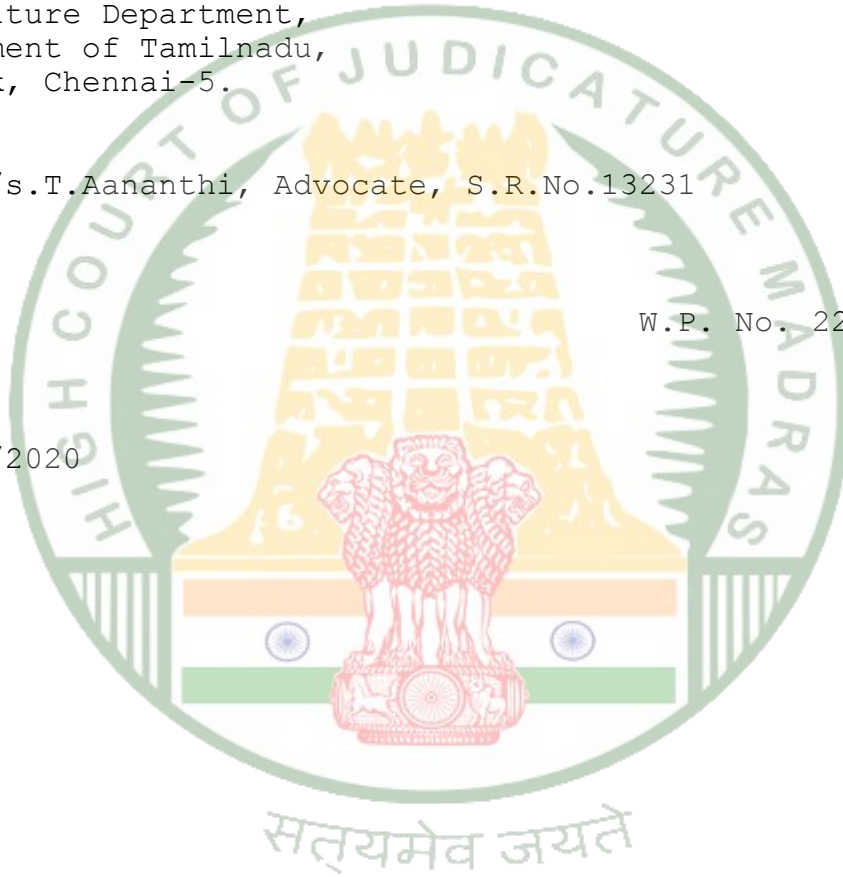
1. The Principal Secretary to Government,
Government of Tamil Nadu,
Agriculture Department,
Fort St.Geroge,
Chennai-9.

2. The Director,
Agriculture Department,
Government of Tamilnadu,
Chepauk, Chennai-5.

+1cc to M/s.T.Aananthi, Advocate, S.R.No.13231

W.P. No. 22587 of 2017

sr[co]
srg 21/07/2020



WEB COPY