



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.03.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD)NO.7935 of 2011

V.Meyyappan

: Petitioner

.vs.

The Joint Director of Agriculture,
Office of the Joint Director of Agriculture,
Pudukkottai - 622 001.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the order dated 24.12.2010 under Letter No.AP2/27112/2010 of the respondent herein and to quash the same and consequently to direct the respondent to regularize the 45 days of service which has been deducted from and out of the Earned Leave of the Petitioner and to repay a sum of Rs.7024/- and Rs.9,528/- which have been deducted towards rent for the quarters and one year salary arrears for the disciplinary proceedings initiated against the Petitioner for the alleged charges under Rule 17-A of the Tamil Nadu Civil Services(Discipline and Appeal)Rules respectively.

For Petitioner : Mr.ALGandhimathi
For Respondent : Mr.C.Ramar,
Addl.Govt.Pleader

O R D E R

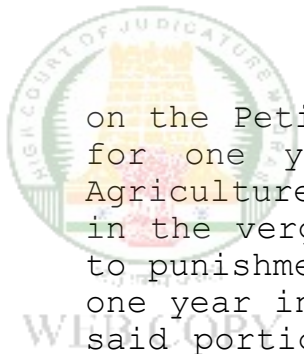
This Writ Petition is filed seeking issuance of a Writ of Certiorari to quash the order dated 24.12.2010 under Letter No.AP2/27112/2010 of the respondent herein and consequently to direct the respondent to regularize the 45 days of service which has been deducted from and out of the Earned Leave of the Petitioner and to repay a sum of Rs.7024/- and Rs.9,528/- which have been deducted towards rent for the quarters and one year salary arrears for the disciplinary proceedings initiated against the Petitioner for the alleged charges under Rule 17-A of the Tamil Nadu Civil Services(Discipline and Appeal)Rules respectively.

2.The case of the Petitioner is that the Petitioner has joined the services of the respondent/Department as Deputy Agricultural Officer in the Department of Agriculture, Government of Tamil Nadu on 19.7.1975 and lastly worked as Agricultural Officer in the same Department and retired from service on attaining the age of superannuation on 30.10.2007. Subsequent to the retirement, when pensionary benefits were calculated, it is found that 55 days of



Earned Leave was deducted from the petitioner's credit and a sum of Rs.7,024/- was deducted towards rent for the quarters and further a sum of 9,528/- being the one year salary arrears was recovered pursuant to the disciplinary proceedings initiated against the Petitioner for the charges under Rule 17-A of the Tamil Nadu Civil Servants(Discipline and Appeal)Rules. Hence the Petitioner has submitted a representation to the respondent stating that he had not availed any leave which has been treated as Earned Leave between April 2005 and September 2005 during which period the Petitioner has attended the Office, which is duly seen from the attendance Register. Further, it is submitted that with regard to the payment of arrears of rent for the quarters, it is submitted that the said quarters was unfit for occupation and the Petitioner had also obtained a certificate to that effect and as such, the Petitioner is not entitled to pay any amount towards rent and with regard to recovery of a sum of Rs.9,528/- the Petitioner had submitted that he had preferred an appeal before the concerned authorities and the same is pending for disposal. In this regard, the Petitioner has submitted a representation and no orders were passed and ultimately the respondent has passed an order, dated 24.12.2010 stating that the Petitioner had not attended Office for 45 days without any information and the aforesaid 45 days has been deducted from and out of the Earned Leave credit of the Petitioner and further, a sum of Rs.7024/-has been deducted towards the rent for the quarters stating that only if PWD issues a certificate that the said quarters is unfit for residential purposes, the Government employee need not pay the rent and if otherwise, the rent has to be paid and thus the said amount has been deducted and accordingly rejected the representation of the Petitioner. Hence the Petitioner has come forward with this Writ Petition for the relief stated supra.

3.A counter affidavit has been filed by the respondent stating that the Petitioner is working as Agricultural Officer under the control of Assistant Director of Agriculture, Avudayarkoil and he stayed away from duty for 45 days and hence the above said 45 days were treated as Earned Leave as per the proceedings No.A/56/2005, dated 8.10.2007 of the Assistant Director of Agriculture, Avudayarkoil. Further, it is stated that the Petitioner has tampered the attendance Register by over-writing without the knowledge of Superintendent and the Assistant Director of Agriculture and it is found to be true on scrutinizing the available records on note file. Therefore the said 45 days were treated as Earned Leave and hence the order of the respondent is in order. Further, for the non-cooperation of the Petitioner with the Assistant Director of Agriculture and office staffs and failure in performing the daily work as per the instructions, a disciplinary action was initiated against the Petitioner under Rule No.17(a) of the Tamil Nadu Civil Services(Discipline and Appeal)Rules and subsequently, a show-cause notice was issued. Though the Petitioner was given sufficient opportunity to submit his explanation, no explanation was received and hence finally a punishment was imposed



on the Petitioner by stoppage of increment without cumulative effect for one year as per the proceedings of the Joint Director of Agriculture, Pudukkottai, dated 21.9.2007. Since the Petitioner was in the verge of his retirement, it was only impossible to implement to punishment and the amount equivalent to the punishment period of one year increment was recovered from the Petitioner. Therefore, the said portion of the order was also in order. Further, PWD quarters was allotted to the Petitioner and the PWD authorities are only empowered to stop the rent recovery for the quarters and the PWD authorities did not issue any such order to stop the recovery. If the Petitioner had submitted his representation to the PWD authorities, the recovery of rent would have been stopped. Further, the PWD authorities only have the power to refund the recovery. Therefore, the said portion of the order is also in order. Therefore, the respondent prayed this Court to dismiss the Writ Petition.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. It is seen that the Petitioner has been allotted a quarters at Manalmelkudi. The Petitioner has written a letter to the Joint Director of Agriculture, Pudukkottai stating that he is residing in Manalmelkudi in a private house along with his aged mother and wife, who is suffering from ailments and he is responsible for maintaining both his wife and aged mother. Further, the quarters allotted to him is not fit for occupation and had the threat from thieves and has requested the authorities not to allot the said quarters. It is also seen that from 4.3.2002, the electricity connection has been disconnected permanently as per the letter issued by the Assistant Engineer (Operation and Maintenance) of Tamil Nadu Electricity Board, Manalmelkudi. Further, the PWD Engineer (EE) has also informed that the said house is not fit for dwelling, since the water, drainage and electricity connection has been disconnected and in the roof, there is seepage of water and directed the subordinates to prepare a Repair Estimate. From the above, it is seen that the act of the respondent in deducting a sum of Rs.7,024/- towards rent for the said quarters which was not fit for dwelling and not occupied by the Petitioner, seems to be unreasonable and hence the said portion of the order has to be set aside and accordingly, the same is set aside.

6. In respect of other claim of the Petitioner to regularize the 45 days of service which has been deducted from and out of the Earned Leave of the Petitioner, it is seen from the counter filed by the respondent that the petitioner has tampered the attendance Register by over-writing without the knowledge of the Superintendent and the Assistant Director of Agriculture and therefore, for his act of misconduct, the said period has been treated as Earned Leave as per the proceedings of the Assistant Director of Agriculture, Avudayarkoil, dated 8.10.2007 and hence the



Petitioner's Earned Leave Credit seems to be fair and reasonable and hence the same stands confirmed.

7. In respect of recovery of Rs.9,528/- towards one year salary arrears for the disciplinary proceedings initiated against the Petitioner for the alleged charges under Rule 17-A of the Tamil Nadu Civil Servants(Discipline and Appeal)Rules, it is seen that for the non-cooperation of the Petitioner with the Assistant Director of Agriculture and other staff members in performing the daily work, the above said disciplinary action was initiated against the Petitioner and a show-cause notice was issued against the Petitioner in this regard. Though sufficient opportunity was afforded to the Petitioner to submit his explanation, he failed to do so and hence finally a punishment was imposed on the Petitioner by stoppage of increment without cumulative effect for one year. Since the Petitioner was at the verge of retirement, it was impossible for the respondent to impose the said punishment and hence a sum of Rs.9,528/- equivalent to the said punishment was recovered from the Petitioner, which in the considered opinion of this Court, seems to be justifiable and is in order. Hence the said portion of the order is also confirmed. Further, the learned counsel for the Petitioner submitted that the Petitioner has filed an independent appeal before the concerned authorities in respect of the order for recovery of a sum of Rs.9,528/- as stated above and the same is pending. This Court is of the opinion that it is for the authorities concerned to decide the appeal on its own merits and hence it is open to the Petitioner to defend his case and prosecute the said appeal in the manner known to law.

8. In view of the above findings, the Writ Petition is partly allowed. No costs.

Sd/-

Assistant Registrar (records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

To

The Joint Director of Agriculture,
Office of the Joint Director of Agriculture,
Pudukkottai - 622 001.

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-12187[F] dated 18/03/2020)

+1 CC to M/s.SPL GP (SR-12281[F] dated 18/03/2020)

ORDER MADE IN

W.P(MD)No.7935 of 2011

17.03.2020

MK (11.06.2020) 4P 4C

<https://hcservices.ecourts.gov.in/hcservices/>