



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.8172 of 2020

and

W.M.P. (MD) Nos.7589 to 7591 of 2020

WEB COPY

A.Murugan

... Petitioner

Vs.

The Joint Director of Agriculture,
Sivaganga Collectorate,
Manamadurai 630 562

... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records comprised in impugned order in Proc.No.Ani.3/11586/2019 dated 28.02.2020 and consequential impugned order in Proc.No.Ani.3/11586/2019 dated 29.02.2020 issued by the respondent and quash the same as arbitrary and illegal and consequently direct the petitioner to superannuate and release all terminal benefits payable to the petitioner.

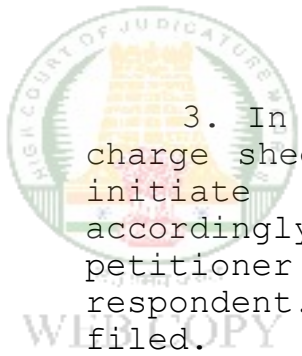
For Petitioner : Mr.K.Prabhakar

For Respondent : Mr.M.Karuppasamy,
Government Advocate

O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, seeking to call for the records comprised in impugned order in Proc.No.Ani.3/11586/2019 dated 28.02.2020 and consequential impugned order in Proc.No.Ani.3/11586/2019 dated 29.02.2020 issued by the respondent and quash the same as arbitrary and illegal and consequently direct to permit the petitioner to superannuate and release all terminal benefits payable to the petitioner.

2. The petitioner was working as an Office Assistant at the Office of the Joint Director of Agriculture, Sivagangai. (it is wrongly mentioned in the cause title as Manamadurai instead of Sivagangai). While so, a criminal case has been filed against the petitioner by filing an F.I.R No.5 of 2019 on the file of AWPS, Sivagangai on 24.03.2019, following which, a charge sheet also has been filed in the said case by the investigating police on 26.08.2019.



3. In view of the above pendency of the criminal case, where a charge sheet also has been filed, the respondent though it fit to initiate disciplinary proceeding against the petitioner and accordingly, by impugned orders dated 28.02.2020 and 29.02.2020, the petitioner has been placed under suspension by the orders of the respondent. Challenging the same, the present writ petition has been filed.

4. Mr.K.Prabhakar, learned counsel appearing for the petitioner has made an initial submission that, the very charge sheet filed in the criminal case dated 26.08.2019 was under challenge in CrI.O.P. (MD)No.4910 of 2020 where, by an interim order, dated 19.03.2020, this Court has stayed the charge sheet itself. When that being so, there could be no further progress in the criminal case and since the issue is one and the same, the parties and witnesses going to be utilised in the criminal case will be the same witnesses, if at all anything in the proposed disciplinary proceedings. Therefore, in the near future, the proposed disciplinary proceedings may not be initiated, unless and until, the result of the validity of the charge sheet filed in the criminal case is decided one way or other in the pending Criminal Original Petition filed by the petitioner. Therefore, the suspension made against the petitioner dated 28.02.2020 may not be necessitated to be extended further. Hence, on that ground, primarily, the petitioner urged before this Court to interfere with the impugned order.

5. This Court on hearing the preliminary submission made by the learned counsel appearing for the petitioner during last hearing, directed the respondent to verify whether the respondent, independently initiated the disciplinary proceeding and in such case, whether any charge memo has been prepared against the petitioner and also wanted to get instruction from the petitioner by the learned counsel appearing for the petitioner that, unmindful of the pendency of the criminal case, where it is stayed before this Court in a criminal original petition referred above, whether the petitioner would be ready and willing to face the disciplinary proceeding, if separately initiated. At that juncture, the case has been adjourned and it has been taken up today.

6. When the case is taken up for hearing today, Mr.M.Karuppasamy, learned Government Advocate appearing for the respondent has filed counter affidavit wherein, he relied upon paragraph no.8 of the counter affidavit and the same is extracted hereunder:

"8. With reference to paragraph 7 of the affidavit, it is submitted that the petitioner herein not informed the entire episode to the controlling officer till 05.11.2019. It is respectfully submitted that the petitioner suppressed and concealed the criminal case pending against him is a misconduct as per the Tamil Nadu Civil Servants (Discipline and Appeal) Rules. For the said misconduct 3



counts of charges are framed against the petitioner vide charge memo No.gep.2./11953/2019, dated 30.07.2020 of the respondent and which is pending for disposal"

7. By relying on the said averment, the learned Government Advocate appearing for the respondent would submit that, a charge memo has already been prepared on 30.07.2020 and the same would be served on the petitioner, based on which, explanation would be called for and if not satisfied, enquiry would be conducted in the manner known to law.

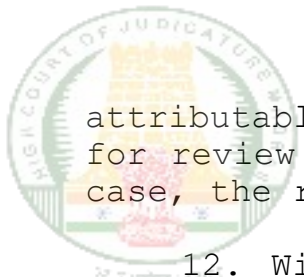
8. By thus, the learned Government Advocate appearing for the respondent would submit that, the disciplinary proceeding has now been initiated, therefore, the petitioner has to face the same independently, unmindful of the pendency of the criminal original petition, where the validity of the charge sheet filed in the criminal case is pending.

9. In response to the said stand taken by the respondent, Mr.K.Prabhakar, learned counsel appearing for the petitioner would submit that, in view of the charge memo having been prepared and the same will be served to the petitioner immediately, on receipt of the same, the petitioner will face the disciplinary proceedings. Therefore, by recording the said developments, the present writ petition ,where the impugned order of suspension is under challenge, can be disposed of.

10. In view of the aforesaid developments, as has been fairly projected by both the learned counsel appearing for the petitioner as well as the respondent, this Court is inclined to dispose of the writ petition with the following order:

"that the charge memo, dated 30.07.2020, if not already served to the petitioner, shall be served by the respondent to the petitioner within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the petitioner shall be at liberty to give his explanation/ defence within a period of two weeks thereafter and on considering the explanation to be filed by the petitioner, if the respondent is not satisfied about the explanation or defence, it is open to the respondent to proceed with the disciplinary proceeding by appointing an Enquiry Officer and try to complete the disciplinary proceeding as early as possible, preferably within a period of four months thereafter."

11. In view of the disciplinary proceeding having been initiated and charge memo being filed against the petitioner, the impugned order of suspension dated 28.02.2020 cannot be interfered at this juncture. However, it is made clear that within the time frame as indicated above, if the disciplinary proceeding is not



attributable on the part of the petitioner, the petitioner can seek for review of such suspension order with the respondent and in that case, the respondent shall act upon accordingly.

12. With these observations and directions, the Writ Petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sts

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Joint Director of Agriculture,
Sivaganga Collectorate,
Sivagangai 630 562

Order made in

W.P. (MD) No.8172 of 2020

AP(02/09/2020) 4P 2C