



WEB COPY

W.P.(MD) No.17612 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.17612 of 2015

and

M.P(MD) .Nos.1 and 2 of 2015

D.Subbiah

... Petitioner

vs.

1.The State of Tamil Nadu

Represented by its Principal Secretary to Government
/Agricultural Production Commissioner
Agricultural Department
Secretariat
Chennai

2.The Director

Office of the Director of Agriculture
Chepauk
Chennai - 5

3.The Joint Director of Agriculture

Office of the Joint Director of Agriculture
Kattuthottam
Mariamman Kovil Post
Thanjavur
Thanjavur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records relating to the impugned suspension order issued by the first respondent in his proceedings in G.O(2D).No.13, dated 30.01.2014 and the consequential order not permitting the petitioner to retire from service passed by the first respondent in his proceedings in G.O(2D).No.14, dated 31.01.2014 and quash the same as illegal and consequentially to direct the first respondent to allow the petitioner to retire from service on attaining the age on superannuation on 31.01.2014 with all attendant monetary benefits.

For Petitioner : Mr.M.Ajmal Khan
For M/s.Ajmal Associates
Senior Counsel

For Respondents : Mr.P.Kannidevan
Additional Government Pleader

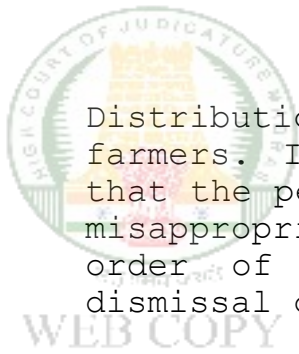


O R D E R

The Writ petition has been filed to call for the records relating to the impugned suspension order issued by the first respondent in his proceedings in G.O(2D).No.13, dated 30.01.2014 and the consequential order not permitting the petitioner to retire from service passed by the first respondent in his proceedings in G.O (2D).No.14, dated 31.01.2014 and quash the same as illegal and consequentially to direct the first respondent to allow the petitioner to retire from service on attaining the age on superannuation on 31.01.2014 with all attendant monetary benefits.

2. The case of the petitioner is that he was appointed as Deputy Agricultural Officer at Agriculture Department, Thanjavur District on 13.12.1980. Then, he was promoted as Assistant Director of Agriculture on 24.08.2012 and he rendered unblemished service of 33 years without giving any room for complaint. In this circumstance, the petitioner was issued with an impugned suspension order by the first respondent in his proceedings, dated 30.01.2014 alleging that an enquiry into grave charges against the petitioner is contemplated. Subsequent to the suspension order, the petitioner was not allowed to retire from service stating that an enquiry into grave charges are pending against him. The learned counsel appearing for the petitioner would submit that the petitioner was not allowed to retire from service for the past six years that too without initiating any departmental proceedings against him. Even after the date of retirement, no charge memo has been issued. The question of enquiry into grave charges are still pending. Aggrieved against the said suspension order, the petitioner is before this Court.

3.The learned Additional Government Pleader appearing for the respondents has filed a counter affidavit, wherein, it has been stated that the Director of Vigilance and Anti-Corruption has taken up a detailed enquiry into the allegations that the petitioner colluded with others and committed malpractice by purchasing only 100 kg storage capacity metal seed bin with weight of about 7 kgs for Rs.140/- per kg for 58 bins and issued to the farmers instead of 20 quintal seed storage capacity bin and also claimed the subsidy amount of Rs.2,000/- per beneficiary for the General Category and Rs.3000/- per beneficiary for SC/ST Category of the allotted subsidy amount for 20 quintals storage capacity bins in Madukkur Block and 50 kgs storage capacity metal storage bin with weight of at about 3.5 kgs for Rs.140/- per kg for 87 bins and issued to the farmers instead of 10 quintals storage capacity bin and also claimed the subsidy amount of Rs.1000/- per beneficiary for the General Category and Rs.1500/- per beneficiary for SC/ST category of the allotted amount for 10 quintals storage capacity bins in Madukkur Block and thereby, the petitioner and others swindled the Government fund of Rs.1,19,030/- during the period 2010-11 in the Seed Village Scheme



Distribution of Subsidy for the procurement of storage bins to the farmers. It is also submitted by the learned Government Advocate that the petitioner colluded with others, committed malpractices and misappropriated the Government money. For the above reasons, the order of suspension was issued and therefore, he prayed for dismissal of this Writ petition.

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

5. In the counter filed by the respondents, it is seen that the delinquency said to have been committed in the year 2010-11 and it is alleged that a sum of Rs.1,19,030/- has been misappropriated. The petitioner is one among the officers who had been working during the period 2010-11. Admittedly, on the date of suspension, no charge has been framed and even till today no charge memo has been issued. The delinquency is said to have happened in the year 2010-11, when the petitioner was working in Thiruvonam, Orathanadu Taluk. In number of cases, the Hon'ble Apex Court has held that "the delay in commencement of disciplinary proceedings would cause serious prejudice to the delinquent employee and the currency of suspension order should not be extended beyond three months". In this case, the petitioner was suspended on the date of retirement ie. 31.01.2014 alleging that an enquiry into grave charges against him is contemplated. But till today, no charge memo has been issued. Therefore, placing the petitioner under suspension and not permitting him to retire from service for the past 6 years that too without initiating any departmental proceedings against him is unjust in law and would cause serious prejudice to the petitioner. Therefore, this Court is inclined to interfere with the orders passed by the first respondent. Accordingly, the orders passed by the first respondent dated 30.01.2014 and 31.01.2014 are set aside and this Writ petition is allowed. The respondents are directed to allow the petitioner to retire from service and to settle the retirement benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

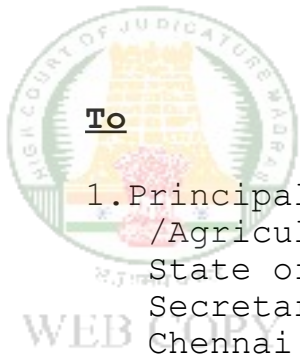
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/ /2020

Sub Assistant Registrar (CS)

Msa

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



To

1.Principal Secretary to Government
/Agricultural Production Commissioner
State of Tamil Nadu
Secretariat
Chennai

2.The Director
Office of the Director of Agriculture
Chepauk
Chennai - 5

3.The Joint Director of Agriculture
Office of the Joint Director of Agriculture
Kattuthottam
Mariamman Kovil Post
Thanjavur
Thanjavur District

+1 CC to SPL.GP (SR-954[F] dated 09/01/2020)

+1 CC to M/s.AJMALASSOCIATES, Advocate (SR-696[F] dated
08/01/2020)

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VB(11.02.2020) 4P 6C