



WEB COPY



W.P.No. 23868 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 23868 of 2009
and M.P. No. 2 of 2009

Dr.P.Nedunchezian

..Petitioner

Vs

1. The State of Tamilnadu, rep. By its
Principal Secretary and Secretary to Government,
Animal Husbandry, Dairying and Fisheries Department,
Secretariat,
Chennai -9.

2.The Commissioner and Director of
Veterinary Service,
Chennai -6.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records of the 1st respondent issued in G.O.(D) No.230 Animal Husbandry Dairying and Fisheries (AH1) Department dt 2.7.2008 and G.O. (2D) No.56 Animal Husbandry Dairying and Fisheries (AH1) Department dt 31.7.2009 and quash the same and direct the respondents to consider the name of the petitioner for promotion to the post of Assistant Director of Animal Husbandry for the year 2009 - 2010 and promote him as Assistant Director of Animal Husbandry with all benefits.

For Petitioner : Mr.G.Elanchezhiyan

For Respondents : Mr.T.Arun Kumar, AGP



W.P.No. 23868 of 2009

ORDER

WEB COPY

The relief sought for in the writ petition is to call for the records of the 1st respondent issued in G.O.(D) No.230 Animal Husbandry Dairying and Fisheries (AH1) Department dt 2.7.2008 and G.O. (2D) No.56 Animal Husbandry Dairying and Fisheries (AH1) Department dt 31.7.2009 and quash the same and direct the respondents to consider the name of the petitioner for promotion to the post of Assistant Director of Animal Husbandry for the year 2009 - 2010 and promote him as Assistant Director of Animal Husbandry with all benefits.

2. The petitioner was initially appointed as Veterinary Assistant Surgeon in the year 1984. While he was working in Saliyamangalam, Thanjavur District, based on the Director's order, the Joint Director of every district had constituted a committee for the purchase of Ayurvedic and Siddha Veterinary drugs and siddha medicines for the year 2001-2002. The petitioner herein was appointed as one of the purchase committee members, by order dated 11.03.2002. Based on the decision taken by the Committee, the work order was issued in favour of the contractors. If such being the position, the 1st respondent framed two charges as against the petitioner as follows;

1. colluded with Dr.V. Subramaniam, Joint Director of Animal



W.P.No. 23868 of 2009

Husbandry, he has sent letters to 13 companies without verifying the market of drugs for the past 3 years market price and potency of drugs.

2. Purchased 7 items of drugs without the label "Government supply not for sale", thus violated the Rule 20 of the Tamil Nadu Government Servant Conduct Rules.

3. Based on the aforesaid charges, the petitioner has submitted explanation to the enquiry officer. The enquiry officer has conducted a detailed enquiry and thereafter it was referred to the tribunal for Disciplinary Proceedings. The Tribunal has conducted enquiry and held charges were not proved. Thereafter, the said report was submitted to the Government and the Government had issued disagreement notice, without recording their tentative reason for disagreement. On receipt of the said notice, the writ petitioner has submitted his detailed explanation dated 26.10.2007 to the Government. Without considering the same, the respondent -Government has passed an order imposing punishment of stoppage of increment for one year without cumulative effect vide G.O.(D) No. 230, Animal Husbandry, Dairying & Fisheries Department dated 02.07.2008. Aggreived by this order, the petitioner preferred a review application before the



W.P.No. 23868 of 2009

Government on 06.10.2008. The said review application was also simply rejected as devoid of merits. Challenging the aforesaid rejection order, the petitioner has filed the present writ petition.

4. According to the learned counsel for the petitioner, the aforesaid show cause notice was issued by the respondent disagreeing the findings of the tribunal, without following the due procedure as decided by this Court as well as the letter issued by the Government . It is also the contention of the learned counsel for the petitioner that the impugned order passed by the Government is only a cryptic order and not a speaking order, no reasons have been adduced in the said orders. The learned counsel for the petitioner would further submit that the charges framed against another member of the committee namely Kamalraj was dropped, based on the enquiry report. Hence, the order passed by the Government is liable to be quashed.

5. The learned Additional Government Pleader has submitted that the charges were framed under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules against the Members of the Purchase Committee including the petitioner. The charges were framed against the petitioner and after enquiry, the enquiry officer has sent the report to the first respondent, as the charges were not proved.



W.P.No. 23868 of 2009

Subsequently, the 1st respondent who is a disciplinary authority came to an opinion to disagree with the findings of the enquiry officer's report, hence show cause notice was served to the writ petitioner to submit his explanation and imposed the punishment for the aforesaid charges. Therefore, there is no procedural lapse or illegality on the part of the respondent as contended by the petitioner.

6. According to the learned Additional Government Pleader, the charges was framed as against the petitioner as well as one Kamalraj who have participated in the tender purchase committee and awarded the contract in favour of the contractors. Though the report of the enquiry officer states that the delinquency was not proved as against the petitioner and Kamalraj, the 1st respondent/Disciplinary authority on perusal of the report submitted by the Directorate of Vigilance and Anti Corruption has decided to construe as the charges were proved against the petitioner. Since the said Kamalraj was not present on the date of receiving the drugs, the charge viz., "the drugs were received without the label Government supply not for sale" was dropped as against the said Kamalraj and proved as against the petitioner. Hence it is the contention of the learned Additional Government Pleader that



W.P.No. 23868 of 2009

both the charges cannot be construed as same and therefore, the petitioner deserves punishment imposed by the respondent authority.

7. Heard both sides and perused the materials available on record.

8. The primordial contention of the petitioner is that the show cause notice has been served on the petitioner by proceedings dated 11.01.2005 and on considering the explanation submitted by the petitioner, the Commissioner for disciplinary authority had concluded that the charges are not proved against the petitioner. Subsequently, the 1st respondent/Government while considering the same, without stating any reason, had dissented with the findings of the enquiry officer and held that the charges were proved and imposed punishment of stoppage of increment for a period of one year without cumulative effect. The relevant paragraphs are extracted below;

"2. On a careful consideration of the report of the enquiry officer aforesaid the Government disagree with the findings of the enquiry officer in so far as it relates to the charge and for the reasons stated in the Annexure to this letter hold that the charge is



proved, which the enquiry officer has held as not proved."

9. According to the petitioner, if the respondent deviate the findings of the enquiry officer, as per the rules, the 1st respondent has to give reasons for taking dissenting view on the report of the enquiry officer. On the facts of the case, there is no reason in the said order. The learned counsel for the petitioner, in support of his contentions, has relied upon the following decisions;

I. The decision of the Hon'ble Supreme Court ***reported in (1998) 7 SCC 84 in the case of Punjab National Bank & Others Vs.Kunj Behari Misra***

"19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority



W.P.No. 23868 of 2009

records its findings on the charges framed against the officer. "

WEB COPY

II. The decision of this Court reported in **(2011) 6 MLJ 122 in the case of M.Muthu Anand Vs. Principal Secretary and Secretary to Government, Home (Transport) Department, Chennai**

"16. At this juncture, it is pertinent to point out that when the Disciplinary Authority takes the assistance of an enquiry officer to conduct the enquiry into the charges and if any findings adverse to the interests of the charged official are recorded, then he has to be furnished with a copy of the enquiry officer's report, so as to enable him to make his further representation, on the findings of the enquiry officer, to the disciplinary authority and at that stage, when the Disciplinary Authority acknowledges the further representation, then he has to apply his mind and consider as to whether, the facts on the basis of which, disciplinary action has been taken, have been established, whether the charged official has been provided with sufficient opportunity to defend the disciplinary proceedings, whether the procedure contemplated under the rules have been followed, whether there is sufficient ground to proceed further with the disciplinary proceedings, and then, he can record his final findings on the charges to remit the matter to the enquiry officer to rectify any procedural defect noticed with regard to the above aspects. But if the enquiry officer records the findings in favour of the delinquent officer, holding that the charges as not proved, with or without any recommendation for exoneration and if the Disciplinary Authority disagrees with those findings, then, it is mandatory on the part of the Disciplinary Authority to form a tentative opinion for disagreeing with the findings of the enquiry officer. But if the Disciplinary Authority, instead of recording a tentative opinion with reasons, for disagreement, proceeds to hold him guilty of the charges and thereafter, issue notice to the charged official, then it is nothing but a post-decisional hearing. It should also be borne in mind that principles of



WEB COPY

natural justice require that before the disciplinary authority records his final finding on the charges, he has to examine various aspects stated supra. But, without examining the same, if the Disciplinary Authority arrives at a final finding on the charges as proved, and thereafter, call upon the charged official to offer his further representation on the finding and also on the procedural aspects, then it is only an empty formality, for the reason, there is not only a post decisional hearing on the findings, but it is also on the procedural aspect. In the case on hand, the Disciplinary Authority has not only recorded his reasons for disagreeing with the findings of the enquiry officer, but has also arrived at the conclusion, holding the charges as proved. At the risk of repetition, the final conclusion of the Disciplinary Authority on the charges is extracted hereunder:

"You have thus allowed the arrangements (i.e., allowing the private individual to work) to continue which certainly should not have been done. The findings of the Inquiry Officer is not accepted. Hence, the charge is held as proved."

17. In P.Govindan v. State of Tamil Nadu reported in 2006 (1) MLJ 624, a Division Bench has considered a case as to whether recording a conclusion on the charges, at the stage of issuance of notice, would cause prejudice to the charged official and whether it satisfies principles of natural justice. In the reported judgment, the Disciplinary Authority, after differing with the enquiry officer, issued a show cause notice to the above said official with a pre-determined mind, holding that the charges as proved. While testing the correctness of the above said order, the Division Bench of this Court, at paragraph 12, held that, "12. The Supreme Court in (1998) II LLJ 809 SC in the case of Punjab National Bank and Ors. v. Kunj Behari Misra and Ors., held that in a departmental proceedings, what is of ultimate importance is a finding of the disciplinary authority. In the context of such seriousness, the Supreme Court held that principles of natural justice would demand that the disciplinary authority, which is deciding against the delinquent officer, must give an opportunity to rebut the view taken, differing from that of the enquiry officer. It further held that whenever the disciplinary authority disagreed with the enquiry authority, then, it must



WEB COPY

record its tentative reasons for such disagreement and give the delinquent officer an opportunity to represent, before it records its findings. The judgment of the Supreme Court applies in all force to the case on hand, considering the fact that the first respondent's notice dated 11.5.2001 is silent on the reasons for taking a different view from that of the enquiry officer. As submitted by the learned counsel for the petitioner, it seemed to carry a conclusion premature that all five charges are held as proved. With such pre-emption on the conclusion, the very purpose of issuing a notice appears to be an empty formality. The purpose of issuing a notice is for enabling the delinquent officer an opportunity to persuade the disciplinary authority to accept the findings of the enquiry officer. Hence, the effectiveness of an opportunity is an absolute necessity, which must be patent even on the face of reading the notice, so that it would enable the delinquent officer to counter all the allegations, before the disciplinary authority takes further action, which may be prejudicial to the delinquent officer. The recording of a conclusion even at the notice stage is premature to give an impression to a delinquent officer that the entire exercise is a mere ritual before the ultimate order is passed. In the light of the facts found by the enquiry officer and the total absence of any material disclosed to form the basis for a different conclusion, we are constrained to accept the plea of the petitioner to set aside the order dated 11.5.2001."

.....

.....

29. Further, if the matter has to be remitted at this length of time, giving liberty to the Disciplinary Authority and in the event of the enquiry proceedings not completed before the date on which, he attains the age of superannuation, then there is always a possibility of placing the petitioner under suspension, with a further direction not to permit him to retire from service, till the disposal of the disciplinary proceedings, as there is a necessity to retain the master and servant relationship. Again Courts have held that except in the case of recovery, disciplinary proceedings cannot be



WEB COPY

continued after retirement, if he is not retained in service. Thus, in the case of disagreement with the enquiry officer's report, substantial requirement of following the principles of natural justice is that, the disciplinary authority can record only his tentative opinion on the charges with reasons and then, issue a notice to the charged official to show cause and that the disciplinary authority cannot hold him guilty at that stage and thereafter, receive further representation, which would offend the well cherished principles of natural justice. Considering the process involved in examining the witnesses, whose statements have been recorded in the preliminary enquiry and the time, which is likely to be consumed, this Court is not inclined to remit the matter. Yet another aspect taken into consideration is that the petitioner has already been overlooked once for promotion, during the pendency of the charges and again, for the second time, during the currency of punishment. Prejudice to the petitioner caused due to the disciplinary proceedings is apparent on the face of record. He has virtually undergone the punishment of postponement of promotion. Though Courts have held that postponement of promotion due to currency of punishment, is not a double jeopardy, yet on the facts and circumstances of this case, by remitting the matter to the disciplinary authority, the agony will be only prolonged, even after the age of superannuation. Justice should not only be done, but should manifestly seemed to be done.

30. In view of the above, the impugned G.O.(D)No.1133, Home (Transport II) Department, dated 09.11.2009 is set aside. Consequently, the petitioner is entitled to consider for promotion as Deputy Transport Commissioner for the panel of the year 2009-10. As the petitioner is due to retire in this month, the respondents are directed to consider his case, well before the age of superannuation and pass orders.

31. In the result, the Writ Petitions are allowed. No costs."



III. The Hon'ble Supreme Court in the case of ***Yoginath D.Bage Vs. State of Maharashtra & another reported in (1999) 7 SCC 739,*** has held as follows;

"29. We have already extracted Rule 9(2) of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 which enables the Disciplinary Authority to disagree with the findings of the Inquiring Authority on any article of charge. The only requirement is that it shall record its reasoning for such disagreement. The Rule does not specifically provide that before recording its own findings, the Disciplinary Authority will give an opportunity of hearing to a delinquent officer. But the requirement of "hearing" in consonance with the principles of natural justice even at that stage has to be read into Rule 9(2) and it has to be held that before Disciplinary Authority finally disagrees with the findings of the Inquiring Authority, it would give an opportunity of hearing to the delinquent officer so that he may have the opportunity to indicate that the findings recorded by the Inquiring Authority do not suffer from any error and that there was no occasion to take a different view. The Disciplinary Authority, at the same time, has to communicate to the delinquent officer the "TENTATIVE" reasons for disagreeing with the findings of the Inquiring Authority so that the delinquent officer may further indicate that the reasons on the basis of which the Disciplinary Authority



WEB COPY



W.P.No. 23868 of 2009

proposes to disagree with the findings recorded by the Inquiring Authority are not germane and the finding of "not guilty" already recorded by the Inquiring Authority was not liable to be interfered with.

IV. Following the aforesaid decision of the Hon'ble Supreme Court, this Court in ***W.P.No.28724 of 2001 dated 16.04.2009*** has held as follows;

"6. At this, the learned Addl.Advocate General, who appeared for the respondents would submit that there were sufficient materials available in the disciplinary proceedings initiated against the petitioner and since the petitioner was involved in serious misconduct of corrupt practice, the Disciplinary Authority has rightly dismissed the petitioner from service. Therefore, the petitioner cannot be allowed to take a technical objection in regard to the decision of the Disciplinary Authority for differing from the findings given by the second respondent Tribunal. This Court is unable to appreciate as to how such argument could be accepted by this Court in view of the settled legal position that in case the Disciplinary Authority takes a decision to differ from the findings of the Enquiry Officer, it is incumbent upon the authority to issue show cause notice to the charged officer and only after obtaining his explanation, the Disciplinary Authority can proceed further in the matter. In this case, unfortunately, the Disciplinary Authority without giving any opportunity to the petitioner herein, has directly issued notice saying that he would not accept the findings and



would hold that the charges were proved against him. Such a course adopted by the Disciplinary Authority is in complete violation of established principles of natural justice and also contrary to the law declared by the Hon'ble Supreme Court of India on the subject matter.

7. As rightly contended by the learned Senior Counsel for the petitioner that the above decision of the Hon'ble Supreme Court would squarely cover the case in favour of the petitioner herein. Once the findings are in favour of the charged Officer, the charged Officer must be given due and reasonable opportunity to put forth his claim in support of the findings and he should be given opportunity to impress upon the Disciplinary Authority about the findings in his favour. Such opportunity is the very essence of complying with principles of natural justice, which cannot be termed as hyper technical."

10. The learned counsel for the petitioner has also brought to the notice of this Court the extract of Chapter IV of Hand Book on Office Administration.

"1.The enquiry officer will send his report to the concerned punishing authority. The report of the enquiry officer is intended to assist the punishing authority in coming to a conclusion about a guilt of a Government servant. The findings of the enquiry officer are adviosry in character and are not binding



W.P.No. 23868 of 2009

on the punishing authority who can disagree with them and come to his own assessment of the evidence from the record of enquiry. On receipt of the report and the records on enquiry, the punishing authority will examine them carefully and dispassionately keeping in view the position indicated above and after satisfying himself that the Government servant has been given a reasonable opportunity to defend himself, will record his findings in respect of each charge saying whether, in his opinion, it stands proved or not. If the punishing authority disagrees with the findings of the enquiry officer on any charge, he will, while recording his own findings, also record reasons for disagreement"

11. The learned counsel for the petitioner has also submitted a letter in Lr.No. 105983/Per.N/90, dated 08.02.1994 issued by the Personal and Administrative Reforms (Personal -N) Department. The relevant portion of the communication is also extracted hereunder; -

"On receipt of the report of the enquiry officer, the disciplinary authority will examine it carefully. After satisfying itself that the Govt. Servant has been given reasonable opportunity to defend



himself, the disciplinary authority will record its findings in respect of each article of charge saying whether, in its opinion, it stands proved or not. If the disciplinary authority disagrees with the findings of the inquiry officer, on any article of charge, it will while recording its own findings, also record reasons for disagreement. Reason need not, however be given if the disciplinary authority agrees with the enquiry officer."

12. A careful reading of the aforesaid decisions cited supra clearly indicates that if the Disciplinary Authority disagrees with the findings of the enquiry officer, should mention the reason for such disagreement. The disciplinary authority, at the same time, has to communicate to the delinquent officer the reasons for disagreeing with the findings of the enquiry officer and thereafter, the authority concerned shall proceed and pass the final orders.

13. On the facts of the present case on hand, the disciplinary authority has not recorded reasons for disagreement and the show cause notice was also served on the petitioner without giving any reasons for such disagreement, therefore by relying upon the decisions of Hon'ble Supreme Court cited supra, the said show cause notice



W.P.No. 23868 of 2009

served on the petitioner is liable to be quashed.

WEB COPY

14. At this juncture it is also relevant to rely upon the decision of this Court, wherein this Court has passed an order while deciding the case of an identical issue. The relevant portion of the order is extracted below;

*In the case of **C.Devendhiran Vs. The Deputy Inspector General of Police, Villupuram Range (W.P.No. 150 of 2013)** reported in 2020 (2) WLR 332.*

"13. The Learned Senior Counsel for the Writ Petitioner has relied upon the decision reported in 1989 writ law reporter 274 considered rule 6(1) of TNPSS (D&A) Rules and it has been held as follows at para 3 and 4 of the said judgment.

"The rule enjoins the concerned authority to consider the three aspects set out therein specifically. Unless the appellate authority considers them it cannot be said that it has carried out its duties properly. The Supreme Court had occasion to discuss a similar question under R.27(2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Dealing with the word 'consider' used in the



said rule, the Supreme Court observed that the word 'consider' implies due application of mind-vide R.P.Bhatt v. Union of India. The following paragraph in the above judgment of the Supreme court can be usefully referred to with advantage-

"The word 'consider' in R.27(2) implies 'due application of mind'. It is clear upon the terms of R.27(2) that the appellate authority is required to consider (1) whether the procedure laid down in the Rules has been complied with; and if not, whether such non-compliance has resulted in violation of any provisions of the Constitution or in failure of justice; (2) Whether the findings of the disciplinary authority are warranted by the evidence on record; and (3) Whether the penalty imposed is adequate and thereafter pass orders confirming, enhancing etc, the penalty, or may remit back the case to the authority which imposed the same. R27(2) casts a duty on the appellate authority to consider the relevant factors set forth in clauses (a), (b) and (c) thereof.

There is no indication in the impugned order that the Director General was satisfied as to whether the procedure laid down in the Rules had been complied with and if not, whether such non-compliance had resulted in violation of any of the provisions of the Constitution or in failure of justice. We regret to find that the Director General has



W.P.No. 23868 of 2009

also not given any finding on the crucial question as to whether the findings of the disciplinary authority were unwarranted by the evidence on record. It seems that he only applied his mind to the requirement of clause (2) of R.27(2) viz., whether the penalty imposed was adequate or justified in the facts and circumstances of the present case. There being non-compliance with the requirements of R.27(2) of the Rules the impugned order passed by the Director General is liable to be set aside."

14. In another judgment of this Court in the case of **K.Kandasamy Vs. Deputy I.G. of police, reported in 2006 (4) MLJ 1382 in para 7**, this Court has held as follows :-

"It is seen from the aforesaid portion of the impugned order that the Appellate Authority did not deal with any of the grounds of appeal raised by the petitioner. A departmental appeal is a continuation of the original proceedings. It is needless to point out that the last opportunity available for a delinquent, to canvass his case on merits, is at the appellate stage. After the appeal, a delinquent loses his right to challenge any disciplinary proceedings on merits, since the scope of interference on a revision or on a writ petition is very limited. Therefore, the rules themselves contemplate Appellate Authorities to go into the factual details and consider all the grounds of



appeal before deciding an appeal. Unfortunately, the first respondent has chosen to dismiss the appeal by a non-speaking order and hence, the Appellate Authority's order is liable to be set aside."

15. It is also pertinent to refer the Judgment of the Hon'ble Supreme Court in Narinder Mohan Arya Vs. United India Insurance Company Ltd, reported in 2006(4) SCC 713, wherein the Hon'ble Supreme Court has held that even when an Appellate Authority agrees with the findings of the Disciplinary Authority in a departmental enquiry, it should give reasons so as to enable the Writ Court to ascertain there was an application of the mind as required by the relevant rules. The relevant portion is extracted hereunder;

"33. An appellate order if it is in agreement with that of the disciplinary authority may not be a speaking order but the authority passing the same must show that there had been proper application of mind on his part as regard the compliance of the requirements of law while exercising his jurisdiction under Rule 37 of the Rules."

16. In view of the decisions cited supra and Rule 6(1) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, it is clear that the appellate authority is the final fact finding authority and he is expected to assess



WEB COPY

the evidences available on record by due application of mind and also record the reasons even though not elaborately, but indicating as to how the appellate authority has satisfied himself with the reasons given by the disciplinary authority. When Rule 6 (1) of Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules mandates that the appellate authority should consider all those materials, in the instant case, no such finding has been given by the appellate authority except simply saying that he has perused some documents and came to the conclusion that the punishment awarded by the 1st respondent is not an excessive and rejected the same.

17. Considering the facts and circumstances of the case and also the decisions rendered by the Hon'ble Supreme Court and this Court cited supra, this Court with no hesitation, has come to the conclusion that the second respondent/ appellate authority has passed a cryptic order/non-speaking order without considering the issues that were raised by the petitioner in his Appeal. As rightly pointed out by the learned senior counsel for the petitioner, the order of the appellate authority/ 2nd respondent is not in conformity with the rule 6(1) of TNPSS (D&A) Rules.



W.P.No. 23868 of 2009

WEB COPY

18. In fine, the impugned order in RC. No.047950/AP1(2)/2000, dated 03.07.2010 passed by the second respondent in respect of P.R. No. 67/ 2009 is quashed and the matter is remitted to second respondent to consider afresh and to pass orders thereon, on merits and in accordance with law, within a period of twelve (12) weeks from the date of receipt of the copy of this order.

19. With the above observations and directions, this writ petition is disposed of. No costs."

15. Considering the facts and circumstances of the case and the decisions cited supra, this court is of the view that the show cause notice and the rejection order issued by the 1st respondent are without any reason and the same are illegal and contrary to the decisions of the Hon'ble Supreme Court and also to the Government letter in Lr.No. 105983/Per.N/90, dated 08.02.1994 and can be construed as cryptic/non speaking order. Hence, on this ground, the impugned order is liable to quashed. Further, by considering the fact that the punishment was imposed on the petitioner as early in the year 2008, this Court is of the opinion that at this distance point of time, it would not be appropriate for this Court to remit the matter to the authorities concerned to consider afresh. Hence, this Court is inclined to pass the



W.P.No. 23868 of 2009

following order;

WEB COPY

- i. Impugned orders dated 02.07.2008 and 31.07.2009 passed by the 1st respondent are quashed.
- ii. The writ petitioner shall submit a representation to the respondents seeking notional promotion, within a period of two weeks from the date of receipt of a copy of this Order.
- iii. The respondents shall consider the representation of the writ petitioner and to grant notional promotion, if he is otherwise eligible.
- iv. Writ Petition is allowed with the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

22.11.2021

Index: Yes / No
Internet: Yes
Speaking order/Non speaking order
ak

D.KRISHNAKUMAR, J.

ak



W.P.No. 23868 of 2009

WEB COPY

To

1. The Principal Secretary and Secretary to Government,
Animal Husbandry, Dairying and Fisheries Department,
Secretariat,
Chennai -9.

2. The Commissioner and Director of
Veterinary Service,
Chennai -6.

W.P.No. 23868 of 2009
and M.P.No. 2 of 2009

22.11.2021