



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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| RESERVED ON:  | 05.03.2021 |
| DELIVERED ON: | 01.04.2021 |

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

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**W.P. (MD)No.18206 of 2019**  
**and W.M.P. (MD) Nos.14636 & 14638 of 2019**  
**(Through Video Conference)**

J.Murugabharathi

... Petitioner

Vs.

The Agricultural Production Commissioner and  
Principal Secretary to Government,  
Agricultural Department,  
Secretariat, Chennai 600 009

... Respondent

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned charge memo in No.VCS1/139810/05 dated 29.09.2008 on the file of the respondent and the consequential impugned Government Order in G.O.(3D) No.108, Agriculture (Ve.Ni.8) department dated 17.07.2019 and quash the same as illegal.

For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mr.A.Muthukaruppan,  
Additional Government Pleader

**O R D E R**

The petitioner herein, while employed as an Agricultural Development Officer, was imputed with a charge memo dated 29.09.2008, alleging that he had failed to conduct Farmers Field School Trainings under the Integrated Cereals Development Programme (ICDP) in four villages during the year 2002-2003 and 6 villages in the year 2003-04 and created false records as if the trainings were conducted and thereby misappropriated a sum of Rs.29,265/- (Rupees Twenty Nine Thousand Two Hundred and Sixty Five only) under the expenses for tea, refreshments and ICDP kits. The enquiry was conducted by one A.Muthukrishnan, who had submitted his enquiry report on 29.05.2013. The further representation of the petitioner was made on 07.02.2015, to raising objections to the enquiry report.

2. On consideration of the petitioner's further explanation dated 07.02.2015, the Government had proposed to impose a punishment of stoppage of increments for a period of 18 months without



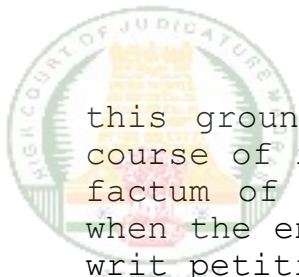
cumulative effect on 23.12.2016. However, based on the Advisory Department's recommendations, it was proposed to impose a major punishment of compulsory retirement. Thereafter, since, there was no progress in the disciplinary action, a writ petition came to be filed by the petitioner and this Court, by its order dated 06.06.2018 passed in W.P.(MD) No.11969 of 2018, directed the respondents herein to pass final orders on the disciplinary proceedings within a period of four weeks. However, the respondents had sought for the views of the Tamil Nadu Public Service Commission (hereinafter referred as 'TNPSC') only on 08.02.2019 and accordingly, the recommendations of TNPSC was made on 08.05.2019, affirming the proposal of the respondents to impose a punishment of compulsory retirement. Consequently, the impugned order on 17.07.2019 came to be passed, by compulsorily retiring the petitioner herein. This order of punishment is put under challenge in the present writ petition.

3. The learned counsel for the petitioner raised the following three grounds: (a) the Enquiry Officer, Mr.A. Muthukrishnan is biased, since the petitioner had earlier pointed out the financial loss that had occurred to the Department owing to the Enquiry Officer's negligence, consequent to which, a sum of Rs.81,570/- was recovered from the Enquiry Officer; (b)The impugned order of punishment is not on independent appraisal of the facts of the case, but a mere reliance on the views of the TNPSC; and the disciplinary proceedings is vitiated since it was not concluded within the time prescribed by this Court in the order passed in W.P.(MD) No. 11969 of 2018.

4. Per contra, the learned Additional Government Pleader placed reliance on the counter affidavits and submitted that the petitioner herein had not raised the ground of 'bias' in the initial stages of enquiry. According to him, the respondents are bound by the views of the TNPSC and in view of the recommendations of the Advisory Boards as well as TNPSC, the punishment of compulsory retirement was imposed.

5. I have given careful consideration to the submissions made by the respective counsels.

6. Insofar as ground (a) of 'Bias' raised by the petitioner is concerned, the petitioner in his additional affidavit, had stated that the Enquiry Officer viz. Mr.A.Muthukrishnan, while holding the post of Assistant Director of Agriculture, had caused financial losses to the Department and this was pointed out by the petitioner to the Government in his report, dated 06.09.2010. Consequently, the Joint Director of Agriculture, Sivagangai, in his proceedings dated 09.05.2013 has issued an order of recovery against the Enquiry Officer and accordingly the amount of Rs.81,570/- was also recovered on 15.05.2013. The only objection raised by the respondents is that



this ground of 'bias' was not raised by the petitioner during the course of inquiry. The learned counsel however, would state that the factum of his complaint against the Enquiry Officer was not known when the enquiry was pending and was revealed only after the present writ petition was filed.

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7. Be that as it may, the fact that the recovery from the Enquiry Officer of the financial losses, was pursuant to the report of the also petitioner, which fact, is not disputed. A cumulative appraisal of the facts commencing from the petitioner's recommendation/ report against the Enquiry Officer that culminated into recovery of the financial loss from Enquiry Officer is sufficient to create an impression that there was a real likelihood of bias and such apprehension of the petitioner that the Enquiry Officer would have acted in a prejudicial manner, is more than sufficient for this Court to infer the possibility of Bias, as held by the Hon'ble Supreme Court in the case of **S.Parthasarathi vs. State of Andhra Pradesh** reported in (1974) 3 SCC 459, in the following manner:-

"13. The letter written by the Medical Officer (Ex. B-8) would indicate that Manvi wanted to get rid of the services of the appellant on the ground of his mental imbalance and it was for that purpose that he tried to get a certificate to the effect that the appellant was mentally unsound. We are of the opinion that the cumulative effect of the circumstances stated above was sufficient to create in the mind of a reasonable man the impression that there was a real likelihood of bias in the inquiring officer. There must be a "real likelihood" of bias and that means there must be a substantial possibility of bias. The court will have to judge of the matter as a reasonable man would judge of any matter in the conduct of as own business (see R. v. Sunderland JJ.) (1).

14. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the ,strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed [see R. v. Huggins(2)]; R. v. Sussex JJ., ex. p. McCarthy(3); Cottle v. Cottle(4); R. v. Abingdon JJ. ex. p. Cousins(5). But in R. v. Camborne ff., ex. p. Pearce(6), the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and, that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such other facts as he might readily have ascertained and

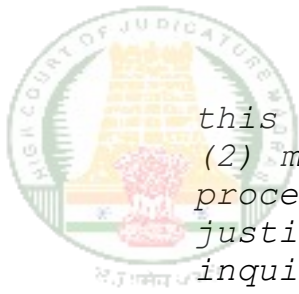


easily verified in the course of his inquiries.

15. The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed [see *R. v. Huggins*(2)]; *R. v. Sussex JJ.*, ex. p. *McCarthy*(3); *Cottle v. Cottle*(4); *R. v. Abingdon JJ.* ex. p. *Cousins*(5). But in *R. v. Camborne ff.*, ex. p. *Pearce*(6), the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and, that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.

16. The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision [see per Lord Denning, *M.R. in Metropolitan Properties Co, (F.G.C.) Ltd. v. Lannon and Others, etc.*(1)]. We should not, however, be understood to deny that the court might with greater propriety apply the "reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings.

17. As there was real likelihood of bias in the sense explained above, think that the inquiry and the orders based on the inquiry were bad. The decision of



this Court in the State of Uttar Pradesh v. Mohammad Nooh (2) makes it clear that if an inquiring officer adopts a procedure which is contrary to the rules of natural justice, the ultimate decision based on his report of inquiry is liable to be quashed. We see no reason for not applying the same principle here as we find that the inquiring officer was biased."

8. It is also a settled principle that the Disciplinary Authority must be impartial and without any bias. In **Union of India and others vs Sanjay Jethi and another**, the Hon'ble Supreme Court had enunciated the principle of bias in the following manner:

"45. The plea of bias it is to be scrutinised on the basis of material brought on record whether someone makes wild, irrelevant and imaginary allegations to frustrate a trial or it is in consonance with the thinking of a reasonable man which can meet the test of real likelihood of bias. The principle cannot be attracted in vacuum.

46. In State of Gujarat and Anr. v. Justice R.A. Mehta (Retired) and Ors. a two-Judge Bench dealing with "bias" has observed thus:

"58.....Bias is one of the limbs of natural justice. The doctrine of bias emerges from the legal maxim nemo debet esse judex in propria causa. It applies only when the interest attributed to an individual is such so as to tempt him to make a decision in favour of, or to further his own cause. There may not be a case of actual bias, or an apprehension to the effect that the matter most certainly will not be decided or dealt with impartially but where the circumstances are such so as to create a reasonable apprehension in the minds of others that there is a likelihood of bias affecting the decision, the same is sufficient to invoke the doctrine of bias. "

47. In the said R.A.Mehta case, it has been further observed that:-

"59. in the event that actual proof of prejudice is available, the same will naturally make the case of a party much stronger, but the availability of such proof is not a necessary precondition, for what is relevant, is actually the reasonableness of the apprehension in this regard in the mind of such party. In case such apprehension exists the trial/judgment/order, etc. would stand vitiated for



want of impartiality and such judgment/order becomes a nullity. The trial becomes coram non judice."

48. At this juncture, we think it apt to refer to the pronouncements in *Ranjit Thakur v. Union of India and Ors.* and *Major G.S. Sodhi v. Union of India*. In *Ranjit Thakur's* case the Court was dealing with justifiability of an order of dismissal passed by the summary Court martial of which one of the members was the Respondent No. 4 therein. The said Respondent had sentenced the Appellant to suffer sentence of 28 days rigorous imprisonment for violating the norms for representation to higher authorities and the representation that was sent to the higher authorities pertained to the ill-treatment at the hands of the Respondent No. 4. Keeping the said factual backdrop in view the Court referred to the procedural safeguards provided Under Section 130 of the Act and opined that the proceedings of summary Court martial was infirm in law. Thereafter, the learned Judges proceeded to deal with the second limb of arguments also. It related to bias on the part of the Respondent No. 4 therein. In that context, the Court observed as follows:

"16. It is the essence of a judgment that it is made after due observance of the judicial process; that the Court or tribunal passing it observes, at least the minimum requirements of natural justice; is composed of impartial persons acting fairly and without bias and in good faith. A judgment which is the result of bias or want of impartiality is a nullity and the trial "coram non-judice". (See *Vassiliades v. Vassiliades*) "

49. The Court in *Ranjit Thakur* case referred to the decisions in *Allinson v. General Council of Medical Education and Registration*, *Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon*, *Public Utilities Commission of the District of Columbia v. Pollak* and *Regina v. Liverpool City Justices, ex parte Topping* and, eventually, concluded that the inescapable conclusion was that the participation of Respondent No. 4 had rendered the court-martial proceedings coram non-judice.

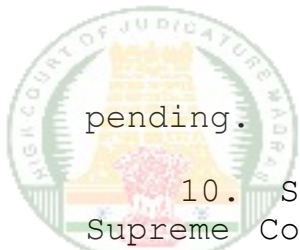
50. In *Major G.S. Sodhi (supra)*, the Court did not accept the alleged plea of bias or mala fide as Lt. Col. S.K. Maini, who had ordered summary of evidence against the Petitioner therein, was inimical towards him because of certain prior incidents. It was also alleged that he had not acceded to certain requests made by the



Petitioner during the inquiry. The Court did not accept the same on the ground that the Respondent Lt. Col. S.K. Maini was only concerned with the preliminary inquiry and it was for the Court martial to try the case and give its verdict and mere allegation of bias and mala fide against him did not affect the Court martial proceedings. That apart, the Court observed that the allegations against the said Maini had not been really substantiated and even they are perceived from the point of view of the Petitioner therein, it could not be held that it was not reasonable on his part to apprehend that the said officer would act in a biased and partisan manner. Emphasis was laid on the fact that he was only responsible for holding a preliminary enquiry.

51. The principle that can be culled out from the number of authorities fundamentally is that the question of bias would arise depending on the facts and circumstances of the case. It cannot be an imaginary one or come into existence by an individual's perception based on figment of imagination. While dealing with the plea of bias advanced by the delinquent officer or an accused a Court or tribunal is required to adopt a rational approach keeping in view the basic concept of legitimacy of interdiction in such matters, for the challenge of bias, when sustained, makes the whole proceeding or order a nullity, the same being coram non-judice. One has to keep oneself alive to the relevant aspects while accepting the plea of bias. It is to be kept in mind that what is relevant is actually the reasonableness of the apprehension in this regard in the mind of such a party or an impression would go that the decision is dented and affected by bias. To adjudge the attractability of plea of bias a tribunal or a Court is required to adopt a deliberative and logical thinking based on the acceptable touchstone and parameters for testing such a plea and not to be guided or moved by emotions or for that matter by one's individual perception or misguided intuition."

9. The objections raised by the respondents on this ground of 'Bias' is that the petitioner herein had not raised the same during the initial stages of inquiry and since he had subjected himself to the disciplinary action until the imposition of punishment, the plea of Bias cannot be raised belatedly. It is no doubt true that the plea of bias, was raised by the petitioner only in this writ petition. It is stated that the fact that the petitioner was instrumental in subjecting the Enquiry Officer to Recovery proceedings, was discovered only when this writ petition was



pending.

10. Such an objection has been dealt with by the Hon'ble Supreme Court in **Rattan Lal Sharma vs Managing Committee, Dr.Hari Ram (Co-Education) Higher Secondary School and others** reported in (1993) 4 SCC 10 whereby it was held that such a plea of Bias, even though belatedly raised before the High Court in the writ proceedings for the first time, could be substantiated. The relevant portion of the order reads thus:

"12. In the facts of the case, there was not only a reasonable apprehension in the mind of the appellant about the bias of one of the members of the enquiry committee, namely, the said Shri Maru Ram but such apprehension became real when the said Shri Maru Ram appeared as a witness against the appellant to prove the said charge and thereafter proceeded with the enquiry proceeding as a member of the enquiry committee to uphold the correctness of his deposition as a Judge. The learned Single Judge considering the aforesaid facts came to the finding that the participation of Shri Maru Ram as a member of the enquiry committee has vitiated the enquiry proceeding because of flagrant violation of the principles of natural justice. Unfortunately, the Division Bench set aside such judgment of the learned Single Judge and dismissed the Writ Petition improperly, to say the least, on a technical ground that plea of bias of Shri Maru Ram and his acting as a Judge of his own case by being a member of the enquiry committee was not specifically taken before the Deputy commissioner and also before the appellate authority, namely, the Commissioner by the appellant and as such the said plea should not be allowed to be raised in writ proceeding, more so, when the case of prejudice on account of bias could be waived by the person suffering such prejudice. General] v, a point not raised before be tribunal or administrative authorities may not be allowed to be raised for the first time in the writ proceeding more so when the interference in the writ jurisdiction which is equitable and discretionary is not of course or must as indicated by this Court in A.M. Allison versus State of Assam, AIR 1957 SC 227 particularly when the plea sought to be raised for the first time in a Writ proceeding requires investigation of facts. But if the plea though not specifically raised before the subordinate tribunals or the administrative and quasi-judicial bodies, is raised before the High Court in the writ proceeding for the first time and the plea goes to the root of the question and is based on admitted and uncontroverted facts and does not require any further investigation into a



question of fact, the High Court is not only justified in entertaining the plea but in the anxiety to do justice which is the paramount consideration of the Court, it is only desirable that litigant should not be shut out from raising such plea which goes to the root of the lis involved. The aforesaid view has been taken by this Court in a number of decisions and a reference may be made to the decisions in A.S. Arunachalam Pillai v. M/s. Southern Roadways Ltd. and another [1960] AIR SC 1191, The Cantonment Board, Ambala v. Pyarelal [1963] 3 SCR 341. In our view, the learned Single Judge has very rightly held that the Deputy Commissioner was under an obligation to consider the correctness and propriety of the decision of the Managing Committee based on the report of the enquiry committee which since made available to him, showed on the face of it that Shri Ramu Ram was included and retained in the enquiry committee despite objection of the appellant and the said Shri Maru Ram became a witness against the appellant to prove one of the charges. It is really unfortunate that the Division Bench set aside the decision of the learned Single Bench by taking recourse to technicalities that the plea of bias on account of inclusion of Shri Maru Ram in the enquiry committee and his giving evidence on behalf of the department had not been specifically taken by the appellant before the Deputy Commissioner and the Commissioner. The Division Bench has also proceeded on the footing that as even apart from Charge No. 12, the Deputy Commissioner has also considered the other charges on consideration of which along with Charge No. 12, the proposed order of dismissal was made, no prejudice has been caused to the appellant. Such view, to say the least, cannot be accepted in the facts and circumstances of the case. The learned Single Judge, in our view, has rightly held that the bias of Shri Maru Ram, one of the members of the enquiry committee had percolated throughout the enquiry proceeding thereby vitiating the principles of natural justice and the findings made by the enquiry committee was the product of a biased and prejudiced mind. The illegality committed in conducting the departmental proceedings has left an indelible stamp of infirmity on the decision of the Managing Committee since affirmed by the Deputy Commissioner and the Commissioner. The observatory of S.R. Das, C.J. in Mohd nooh's case (ibid) may be referred to in this connection:

'Where the error, irregularity or illegality touching jurisdiction or procedure committed by an inferior court or tribunal of first instance is so patent and loudly obstrusive that it leaves on its



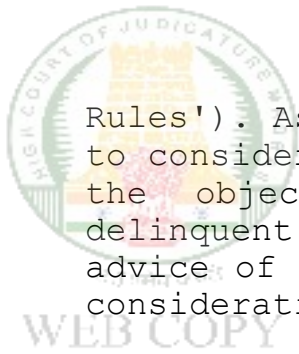
decision an indelible stamp of infirmity or vice which cannot be obliterated or cured on appeal or revision. If an inferior court or tribunal of first instance acts wholly without jurisdiction or patently in excess of jurisdiction or manifestly conducts the proceedings before it in a manner which is contrary to the rules of natural justice and all accepted rules of procedure and which offends the superior court's sense of fair play, the superior court may, we think, quite properly exercise its power to issue the prerogative writ of certiorari to correct the error of the court or tribunal of first instance, even if an appeal to another inferior court or tribunal was available and recourse was not had to it or if recourse was had to it, it confirmed what ex-facie was a nullity for reasons aforementioned '.

13. We have, therefore, no hesitation in allowing the appeal by setting aside the impugned judgment of the Division Bench of Punjab and Haryana High Court and the order of dismissal of the appellant passed by the Managing Committee of the School confirmed by the Deputy Commissioner and affirmed in appeal by the Commissioner. This decision, however, will not preclude the Managing Committee. however, from proceeding a fresh with the departmental proceedings from the stage of issuance of charge sheet. It is, however, made clear that if a fresh enquiry proceeding is initiated it should be ensured that the enquiry committee is not composed with any of the members of the previous enquiry committee and such proceeding should be completed within a period of four months from today."

By applying the aforesaid ratio, which approves belated plea of Bias at the stage of writ proceedings, even though not raised during the entire course of disciplinary action, the objection of the learned Additional Government Pleader in this regard, cannot be sustained.

11. Insofar as ground (b) with regard to independent appraisal of the facts by the Disciplinary Authority is concerned, it is seen that pursuant to the enquiry report dated 29.05.2013, the petitioner had given his further representation on 07.02.2015. The respondents herein had thereafter, relied on the opinion of the TNPSC dated 08.05.2019 and imposed the punishment of compulsory retirement on the petitioner, through the impugned order dated 17.07.2019.

12. The petitioner herein was proceeded with the departmental action under Rule 17(b) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules (hereinafter referred to as 'the

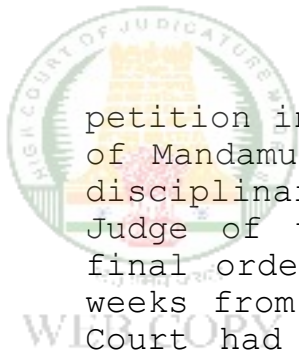


Rules')). As per Sub rule(ii), the Disciplinary Authority is mandated to consider the evidences adduced during the enquiry, as well as the objections raised in the further representation of the delinquent and thereafter, impose the punishment. Further, when the advice of the TNPSC is sought for, such advice shall be taken into consideration before making an order imposing any such penalty.

13. Most of the aforesaid procedures, as contemplated under section 17(B) of the Rules, have been given a go-by in the instant case. A perusal of the impugned order reveals that the respondents herein had extracted the findings of the Enquiry Officer, as well as the advice of the TNPSC and without any discussion, had imposed the major punishment. Though the impugned order of punishment runs to about 9 pages, the findings of the Disciplinary Authority is found only in the penultimate paragraph of the order. Even therein, there is absolutely no findings, for except for a solitary sentence that the Government had decided to impose the punishment of compulsory retirement on the petitioner. The impugned orders therefore, is a non-speaking order, passed without any application of mind, which is in total violation of the procedure contemplated under Rule 17(b) of the Rules.

14. The impugned order also places reliance on the advice of the TNPSC, dated 08.05.2019. The petitioner has raised a ground that a copy of the TNPSC's advice, was not served on him. This statement is not disputed. On the other hand, the impugned order ratifies the by non-furnishing of the advice report, by serving a copy of the TNPSC report, along with the impugned order of punishment. This procedure has been held to be impermissible in various decisions of this Court, including the order of an Hon'ble Division Bench of this Court in **Union of India, Ministry of Defence and another vs. the Registrar, Central Administrative Tribunal, Chennai and another** reported in (2005) 2 5 MLJ 154, wherein it was held that the delinquent employee would be entitled to a copy of the report of the Public Service Commission, before passing of an order of punishment. Further, non-furnishing of the report would also disable the delinquent officer to give an effective objection, since he would be deprived of knowing the contents of the report. Thus, the manner in which the disciplinary proceedings had culminated into the impugned punishment, Regulations and scaled proportion is contrary to the Regulations and settled propositions of law.

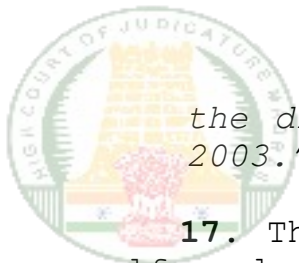
15. The third and last ground (c) raised by the learned counsel for the petitioner is the latches in conclusion of the disciplinary proceedings. The entire disciplinary proceedings initiated with the charge memo on 29.09.2008. After the enquiry report dated 29.05.2013 and the petitioner's further representation dated 07.02.2015, there was no much progress and therefore, the petitioner had filed a writ



petition in W.P.(MD) No.11969 of 2018 seeking for issuance of a writ of Mandamus, directing the Authorities to pass final orders to the disciplinary action. By an order dated 06.06.2018, a learned Single Judge of this Court had directed the respondents herein to pass final orders the disciplinary proceedings, within a period of four weeks from the date of receipt of a copy of that order. Though this Court had stipulated the time for conclusion of the disciplinary proceedings, the respondents had chosen to seek the advice of the TNPSC only on 08.02.2019 i.e. after eight months from the High Court's order. The TNPSC had rendered its advice on 08.05.2019 and the impugned order of punishment came to be passed on 17.07.2019. Thus, it is seen that there has occurred an inordinate delay in the disciplinary proceedings from the inception, till the punishment. Such an inordinate delay could be fatal to the entire action as held in various decisions of the Hon'ble Supreme Court as well as this Court. More so, when this Court had specifically directed the respondents to complete the disciplinary action within four weeks, there was a mandatory duty cast upon the respondents to comply with such a direction passed in the writ petition.

**16.** The Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu, Personnel and Administrative Reforms Department, Chennai and another vs. T.Ranganathan*** had held that, such inaction to comply with the time limit fixed by the Court would be fatal to the disciplinary action. The relevant portion of the order reads thus:

*"We are conscious of the fact that if there is non-cooperation of the delinquent officer to comply with the time limit fixed by the Court/Tribunal to complete the enquiry and pass final orders in disciplinary proceedings, the Department cannot be blamed. In such contingency it is for the Department to point out the non-cooperation on the part of the delinquent officer in finalising the proceeding and the hardships faced by the Department in not strictly adhering to the time schedule due to the fault of the delinquent officer or for any valid reason and get appropriate orders seeking extension of time. At this juncture, it is relevant to point out that even if the time granted originally to complete the enquiry is over, nothing prevented the Department from filing appropriate application after expiry of the time. It is now well settled in law that application seeking extension of time can be filed and the Court are having inherent powers to grant further time, even though the original time granted got expired, based on the principles of invoking inherent powers to meet the ends of justice. In this case, there is no whisper about the non-cooperation of the petitioner in conducting the enquiry and completing the enquiry within the time. Hence the Department is bound to comply with*



*the directions issued by the Tribunal in O.A.No.1535 of 2003."*

**17.** The aforesaid observation of the Hon'ble Division Bench is self-explanatory. As held therein, the respondents herein had not sought for any further extension of time from this Court for completing the disciplinary action nor any reason has been adduced in the counter affidavit filed before this Court for such an inordinate delay. Thus, the latches on the part of the respondents would accrue in favour of the petitioner.

**18.** In normal circumstances, when the order of punishment imposed by the Disciplinary Authority is found to be a non-speaking order or that it suffers from non-application of mind, this Court would generally remand the matter back for reconsideration. However, the petitioner has succeeded on the other two grounds viz. that there was bias in the conduct of the enquiry itself and the delay in concluding the disciplinary action was also inordinate, which does not deserve consideration. The disciplinary action has been pending for the past 12 years and therefore, if the matter is sought to be remanded back for at this point of time reconsideration at this point of time, serious prejudice would be caused to the petitioner herein. As such, this Court is of the considered view that such remand is unwarranted in the instant case. Consequently, the petitioner would be entitled to succeed in this writ petition.

**19.** For all the reasons stated above, the impugned Charge Memo in No.VCS1/139810/05 dated 29.09.2008 on the file of the respondent and the consequential impugned Government Order in G.O.(3D) No.108 Agriculture (Ve.Ni.8) Department dated 17.07.2019 are set aside and the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

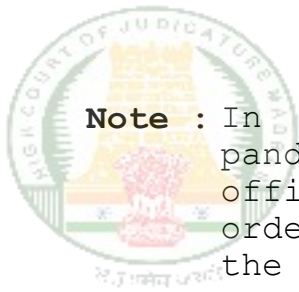
Sd/-

Assistant Registrar (T & P)

// True Copy //

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Sub Assistant Registrar(CS)



**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.

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The Agricultural Production Commissioner and  
Principal Secretary to Government,  
Agricultural Department,  
Secretariat, Chennai 600 009

+1CC to M/s.T.LAJAPATHI ROY, Advocate( SR-9650[F] dated 09/03/2021 )

W.P. (MD) No.18206 of 2019

Dated:  
01.04.2021

MA (19.05.2021) 14P 3C