



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.6650 of 2018

and

W.M.P (MD) No.6442 of 2018

C.Balamurugan

...Petitioner

Vs.

1.The Secretary to Government,
Agriculture Department,
Secretariat,
Chennai.

2.The Director of Agriculture,
Directorate of Agriculture,
Chepauk, Chennai - 5.

3.The Director,
Director of Horticulture and Plantation Crops,
Chepauk, Chennai - 5.

4.The Joint Director of Agriculture,
Collectorate Complex,
Korampallam,
Turicorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned Charge Memo passed by the 2nd respondent in his Proceedings No.Pa O Na.2/1/29453/2018, dated 13.03.2018 and quash the same.

For Petitioner : Mr.C.Mayil Vahana Rajendran
for Mr.K.Seemaraj

For Respondents : Mr.A.Muthu Karuppan
Additional Government Pleader

O R D E R

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



2.1.The petitioner herein was originally working as an Assistant Agriculture Officer in the Agricultural Department from the year 1989. In the year 2008, the Agricultural Department was restructured and the petitioner herein had opted to work in the Horticulture and Plantation Crops Department and accordingly, he was transferred to the said Department.

2.2.The present impugned order is a set of charges alleging that the petitioner had caused financial loss to the Government, while he was serving as Assistant Agricultural Officer in the Agricultural Department. The said charge memo was issued by the Directorate of Agriculture, who is the second respondent herein. The charge memo is put under challenge, predominantly, on the ground of incompetency of the Authority to have passed the impugned charge memo.

2.3.According to the learned counsel for the petitioner, the restructuring of the Agricultural Department was done through G.O.Ms.No.537, Agricultural Department, dated 24.12.2007, which provides that the disciplinary authority under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, shall be the Director of Agriculture. Hence, the learned counsel submitted that the charge memo issued by the Director of Agriculture cannot be sustained.

3.Per contra, the learned Additional Government Pleader placed reliance on the averments made in the counter affidavit and submitted that though the Agricultural Department was restructured and all the employees of the Department are controlled by the cadre Management Authority, which vests with the Director of Agriculture, there is no illegality on the part of the Director of Agriculture to have issued the charge memo.

4.I am not in agreement with the reasoning adopted by the respondents, empowering the Director of Agriculture to issue a charge memo. As stated above, the restructuring of the Directorate of Agriculture, Horticulture and Plantation Crops Departments, etc. was effected through G.O.Ms.No.537, Agricultural Department, dated 24.12.2007. While stipulating the mode of restructuring, it had specifically empowered in paragraph 17 (xiii), the Directorate of Horticulture to be the Disciplinary Authority for the purpose to initiate the disciplinary proceedings against the staff allotted to the said Directorate.

5.The relevant portion of the said Government Order reads thus:

"(xiii).Powers shall be delegated to Director of Horticulture and Plantation Crops, Managing Director, TANHODA, Director of Seed Certification & Organic Certification and Director of Agricultural Marketing & Agri Business for initiation of



WEB COPY

disciplinary proceedings against the staff allotted on service-lent basis also under Rule 17(a) or 17(b) as the case may be, under Tamil Nadu Civil Services (Discipline and Appeal) Rules and imposition of punishment except imposition of the punishments of termination / dismissal / removal. The powers to impose these major punishments shall be vested with cadre control authority viz., Director of Agriculture / Commissioner of Horticulture and Plantation Crops."

6.While that being so, the Director of Agriculture, while issuing the present Government Order, may not have the authority to issue and initiate departmental proceedings against the staff of Directorate of Horticulture.

7.The learned counsel for the petitioner had also placed reliance on the order of this Court passed in the petitioner's case, in W.P.(MD).No.11003 of 2013, dated 30.08.2013, wherein, it was held that since the petitioner is admittedly working in the Horticulture Department under the Director of Horticulture, it is that disciplinary authority under whose control he is working, who would be entitled to initiate disciplinary action. While passing such an order, the learned single Judge had placed reliance on G.O.Ms.No.537, dated 24.12.2007.

8.For all the foregoing reasons, this Court is of the affirmed view that the second respondent herein does not hold the authority to issue the charge memo and the competent authority would be the third respondent, namely, the Director of Horticulture Plantation Crops. Under this ground of incompetency of the authority, the impugned Charge Memo issued by the 2nd respondent in his Proceedings No.Pa O Na.2/1/29453/2018, dated 13.03.2018, stands quashed. However, the third respondent is at liberty to proceed against the petitioner and initiate Departmental action, if they choose to do so. With the above liberty, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

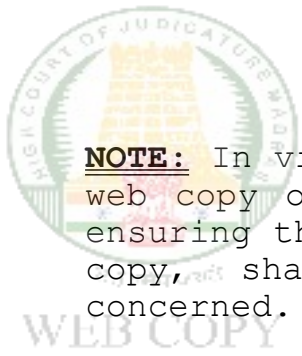
Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM



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

1.The Secretary to Government,
Agriculture Department,
Secretariat, Chennai.

2.The Director of Agriculture,
Directorate of Agriculture,
Chepauk, Chennai - 5.

3.The Director,
Director of Horticulture and Plantation Crops,
Chepauk, Chennai - 5.

4.The Joint Director of Agriculture,
Collectorate Complex,
Korampallam, Turicorin.

+1 CC to Mr.K.SEEMARAJ, Advocate (SR-6612[F] dated 23/02/2021)

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-6693[F] dated 23/02/2021)

Order made in
W.P.(MD) No.6650 of 2018 and
W.M.P(MD) No.6442 of 2018
22.02.2021

KUN(CO)

SRS (04/03/2021) 4P : 7C