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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.1314 of 2019

and

WMP.Nos.1467 &16671 of 2019

K.Ezhil Rani

D/o.S.Karunanithi

..Petitioner

Vs.

The Additional Director of Agriculture,

(Personnel Management)

Government of Tamil Nadu,

Chepauk, Chennai - 600 005.

..Respondent

Prayer:Petition filed under Article 226 of the Constitution of India for Writs of Certiorarified Mandamus, calling for the records pertaining to the impugned order No.DCS2 (2)/132564/2018 dated 03.12.2018 on the file of the respondent and quash same consequently direct the respondent to reinstate the petitioner in service with all consequential benefits.

For the Petitioner : Ms.K.Ezhil Rani
Party-in-person

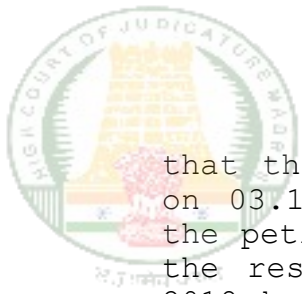
For the Respondent : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The prayer sought for herein is for issuance of a writ of certiorarified mandamus, to quash the impugned order No.DCS2 (2)/132564/2018 dated 03.12.2018 on the file of the respondent and consequently, direct the respondent to reinstate the petitioner in service with all consequential benefits.

2.The petitioner was appointed as Agricultural Officer in the year 2009 in the respondent Department. In the year 2018, based on the contemplation of enquiry or pendency of enquiry in disciplinary proceedings, the petitioner was placed under suspension by order dated 03.12.2018. Challenging the same, the present writ petition has been filed.

3. The petitioner, who appeared party-in-person, submitted



that though initially the impugned order of suspension was made on 03.12.2018, citing that a enquiry to grave charges against the petitioner was pending from the year 2014, what necessitated the respondent to invoke the suspension provision in the year 2018 has not been spelt out. Moreover, when the said suspension order was challenged in this writ petition filed in the year 2019, during the pendency of the writ petition, subsequent charge memos are also issued and as of now according to the learned counsel for respondent there are three charge memos and in respect of each of the charge memo, an Enquiry Officer was appointed and enquiry was conducted, the petitioner also co-operated with the Enquiry Officer and all the three enquiries have been completed.

4. She would further submit that in respect of the second charge memo though the enquiry was completed the petitioner wanted to examine a witness by name M. Ganesan, who is a third party and who is neither the co-employee of the petitioner nor relating to the official function of the petitioner or the office of the petitioner, therefore, that was not permitted. Only at that stage, the writ petition has come up for final hearing.

5. Heard Mr. U. M. Ravichandran, learned Special Government Pleader appearing for the respondent, who has filed the status report with regard to the enquiry being conducted in respect of the three enquiries pertaining to the three charges separately issued. The status report filed by the respondent dated 22.06.2022 in entirety is extracted hereunder for better appreciation of the case:

"The Hon'ble High Court of Madras on 31.03.2022 in W.P.No.1314/2019 and WMP.Nos.1476 and 16671 of 2019 filed by Selvi. K. Ezhilrani, Agricultural Officer (under suspension) in direction dated 31.03.2022 has issued the following orders:

2. In the affidavit dated 16.03.2022 filed by the Respondent, it has been stated that the Petitioner has been issued with the following charge memo:-

- (i) Charge Memo No. DCS2/3/89520/2015 dated 03.09.2015
- (ii) Charge Memo No. A1/1665/2016 dated 27.11.2018
- (iii) Charge Memo No. DCS2/2/132564/2018 dated 18.01.2019 and endorsement Letter No. A1/9400/2018 dated 21.01.2019.

3. In respect of the first charge memo, it is accepted by both sides that the enquiry has been completed on 21.03.2022 and that further proceedings would have to take place. As regards the second charge memo, Learned Special Government Pleader states that the Petitioner did not participate in the enquiry and



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it has been closed on 22.02.2022 and though the enquiry report has been submitted, it would be re-opened as the Petitioner has now agreed to attend the enquiry which has been fixed on 12.04.2022 in that regard. It is further stated that the enquiry for the third memo has been fixed on 19.04.2022 and notice for the same has also been received by the Petitioner today and she has made an endorsement to that effect in the court record. It is further stated that the enquiry in respect of the second and third charge memo would proceed further from the said dates following the prescribed procedure in consonance with the principles of the natural justice.

4.The Petitioner, who has appeared in person before the Court today, has furnished her address at Plot No. 102, V Street, P.G. Avenue, Kattupakkam, Chennai - 600056 (Cell: 9444627107) for the Respondent to serve any future communication in the disciplinary proceedings. It is needless to add here that the Petitioner shall extend her co-operation for completing the enquiry without brooking any further delay and its outcome shall be informed to the Court on the next hearing.

Post the matter after four weeks.

In respect of first charge memo (DCS2/3/89520/2015, dated 03.09.2015) enquiry has been completed by the Enquiry officer and enquiry report has been submitted in this office. Action is being initiated to get additional explanation from the individual for the proved charges. After the receipt of further explanation from the individual final orders will be passed.

In respect of second charge memo (A1/1665/2016, dated 27.11.2018) the Enquiry Officer Tmt.P.Rani, Assistant Director of Agriculture, Perambalur has informed vide Letter No.319/2020-21 dated 24.05.2022 that the fourth enquiry against the individual was conducted on 12.04.2022. During the enquiry the delinquent Selvi. K.Ezhilrani, Agricultural Officer (under suspension) has requested to enquire the witnesses mentioned in the questionnaire forms furnished by the individual before 24.04.2022. The enquiry officer has addressed Selvi. K.Ezhilrani, Agricultural Officer (under suspension) vide letter No.319/2020-21 dated 13.04.2022 in the following addresses given below to submit the details of the



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witnesses for sending summons.

Selvi.K.Ezhilrani,
C/o.Seenivasan,
Plot No.102, 5th Street,
P.G.Avenue,
Kattupakkam,
Chennai - 56.

Selvi.K.Ezhilrani, Agricultural Officer (under suspension), has addressed the Enquiry Officer Tmt.P.Rani, Assistant Director of Agriculture, Perambalur to enquire the petitioner's witness Thiru M.Ganesan S/o Muthuvel, North Street, Kannankaran Pettai, Udaiyarpalaiyam Taluk, Ariyalur District vide letter dated 12.05.2022. The Enquiry Officer vide letter No.319/2020-21, dated 22.06.2022 has informed that the above individual he is not related to Agriculture Department and also he is not residing in Ariyalur District and requested clarification to Enquire the above witness. Action is being initiated to send a reply to the Enquiry Officer. For the above reason the Enquiry is still pending in the above case.

In respect of Third Charge memo (DCS2/2/132564/2018, dated 18.01.2019) the enquiry officer Tmt.D.S.Balasoundari, Deputy Director of Agriculture, O/o the Directorate of Agriculture has informed vide No.1/2021-19, dated 21.06.2022 that the Enquiry has been completed and the Enquiry Report will be submitted on 24.06.2022.

I am to requested the Special Government Pleader to apprise the above facts to the Hon'ble Court and defend case on behalf of Government."

6.Relying upon this status report, the learned Special Government Pleader would contend that, in respect of the first and third charge memos, the enquiry was completed, therefore, after giving due opportunity to the petitioner by supplying the copy of the enquiry officer's report and after getting the reply from the petitioner in respect of each of such enquiry officer's report pertaining to charge memo Nos. 1 & 3, final decision would be taken by the disciplinary authority. He would further submit that in respect of the second charge memo though enquiry was completed since the petitioner wanted to examine the third party viz., one M.Ganesan, that was still pending and there was no scope for allowing the petitioner to examine the said M.Ganesan being a third party as a witness of the petitioner as he was not related to the charges framed against the petitioner even in the second charge memo. Therefore, if that is given up



by the petitioner that enquiry also can be completed and accordingly, after getting the report from the Enquiry Officer in respect of second charge memo, the same procedure would be followed before passing the final order by the Disciplinary Authority.

7.I have heard the said submissions made by the petitioner as well as the learned Special Government Pleader appearing for the respondent and have perused the materials placed before this Court.

8.The petitioner submitted that, even in respect of the second charge memo, if the Enquiry Officer not permitting the plea of the petitioner to enquire the said M.Ganesan, who is a third party as a witness of the petitioner, then it can be treated as a completed enquiry and accordingly, in respect of all the three enquiries pertaining to the three different charge memos, the respective Enquiry Officer can file reports, based on which, let an opportunity be given to the petitioner and she is ready and willing to response within a time frame that may be stipulated by this Court, based on which, final decision can be taken by the Disciplinary Authority, she contended.

9.In respect of the said submission made by the petitioner, learned Special Government Pleader would contend that, a time frame for each action can be fixed by this Court, within which, the respondent is ready and willing to complete the enquiry and pass final order after giving due opportunity to the petitioner, that is the second opportunity, based on the Enquiry Officer's report.

10.I have considered the said submissions made by the petitioner as well as the learned counsel appearing for the respondents.

11.Since the enquiry is almost in the final stage, where the Enquiry Officer's report has to be obtained by the Disciplinary Authority and thereafter, after giving second opportunity to the petitioner final orders have to be passed by the Disciplinary Authority that is the respondent Department, this Court feels that at this juncture the order of suspension, which is impugned herein, need not be interfered with. Hence this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That there shall be a direction to the respondent to get the Enquiry Officer's report by treating all the three enquiries are completed within a period of two weeks from the date of receipt of a copy of this order. On receipt of the such Enquiry Officer's report from the three Enquiry Officers separately, a copy of the same in each of the case



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shall be forwarded to the petitioner by giving a second opportunity of giving two weeks time to the petitioner to reply to the said Enquiry Officer's report within a period of one week thereafter.

- ◆ On receipt of such communication from the respondent along with the copy of the Enquiry Officer's report in each cases, it is open to the petitioner to respond within a period of two weeks thereafter separately and on receipt of such reply from the petitioner, the respondent/Disciplinary Authority after considering such reply to be submitted by the petitioner in each of the cases, shall take a final decision with regard to the final order to be passed either to impose any penalty against the petitioner or otherwise and such final order shall be passed in all the three cases separately by the respondent within a period of four weeks thereafter.
- ◆ In view of the aforesaid directions, the impugned suspension order need not be interfered with as of now and it is needless to mention that depending upon the outcome of the disciplinary proceedings in the three separate charges/enquiry, decision as to whether the impugned suspension order can be revoked or otherwise can be decided accordingly by the respondent.

With these directions, this writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mp

To
The Additional Director of Agriculture,
(Personnel Management)
Government of Tamil Nadu,
Chepauk, Chennai - 600 005.

+1cc to M/s.K.Ehilrani, Party in Person, S.R.No.40986
+1cc to the State Government Pleader, S.R.No.42036

W.P.No. 1314 of 2019

RP(CO)
RGA(04/07/2022)