



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.16135 of 2010

A.Krishnasamy

... Petitioner

Vs.

1.The Secretary to Government,
Agriculture Department,
(A.A.III) 1st Floor, Secretariat,
Chennai - 9.

2.The Chief Engineer (Agricultural Engg)
No.487, Anna Salai,
Nandanam, Chennai 600 035.

3.The Executive Engineer (Agricultural Engg)
Nandanam, Chennai 600 035.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate Writ or order or direction in the nature of Writ calling for the records connected with the orders of the 3rd respondent passed in Proceedings No.அ/5997/88 dated 28.08.1992 and also the proceedings the 2nd respondent in Letter No.ஓந1/3386/2006-1 dated 08.05.2007, quash them and also direct the 2nd and 3rd respondents to refer the case of the petitioner to the 1st respondent for fresh appraisal as per G.O.Ms.No.477/P & AR Department dated 21.11.1990 to consider the case of the petitioner, for his terminal benefits, or in the alternative for sanction of Medical Invalid Pension.

For Petitioner : Mr.P.Manoj Kumar

For Respondents: Mr.M.Alagu Gowtham
Government Advocate



O R D E R

This Writ Petition is filed challenging the order of dismissal dated 28.08.1992 and consequential order rejecting his representation dated 08.05.2007.

2. The brief facts in this case remains that the petitioner joined service as Land Assistant and while so, from the year 1987 he started applying for leave and remained continuously absent thereafter even after exhausting all kinds of leave. It was periodically represented that the petitioner was unwell and ultimately charges were framed by a Charge Memo dated 28.09.1990 and even during the enquiry, the petitioner remained ex-parte. After considering the relevant facts and circumstances, the order of dismissal was passed dismissing him from service with effect from 28.08.1992. However, subsequently from the year 2005 onwards, the petitioner started making representation to the Government that he was not well and therefore without considering relevant circumstances, he was dismissed from service.

3. The respondents were kind enough to apply their mind to the said representation and they have found that the petitioner went to Muscat for service, while erroneous information was being furnished to the department and rejected the representation. Taking advantage of the order of rejection dated 08.05.2007, this Writ Petition was filed in the year 2010 challenging both orders i.e., order of dismissal dated 28.08.1992 and the consequential order dated 08.05.2007.

4. Even at the time of admission, it was specifically mentioned that the Writ Petition is being admitted subject to the delay and laches.

5. Today when the matter is taken up for final hearing, the learned counsel for the petitioner would submit that the petitioner had been making representations, therefore, the delay is justified. Upon considering the arguments of the learned counsel for the petitioner and that of the learned Government Advocate appearing on behalf of the respondents, first I find that the order of dismissal had become final in the year 1992 and not even an appeal has been filed and therefore order of dismissal has become final. Just because the respondents rejected the representation by way of the order dated 08.05.2007, the same will not in any manner renew or revive the



cause of action for the petitioner. There was huge unexplained and inordinate delay of 13 years even making one representation. The petitioner's representation hopelessly lacks merits and is accordingly dismissed. This Court is inclined to award costs, but, however, on the plea made by the learned counsel for the petitioner, especially considering the advanced age of the petitioner, costs made easy. Accordingly this Writ Petition is dismissed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

ab

To

- 1.The Secretary to Government,
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+1cc to Government Pleader SR.No.25938

W.P.No.16135 of 2010

KV(CO)
GMY(04/05/2022)