



W.P.No.11031 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.11031 of 2014

and

M.P.No.1 of 2014

S.Gnansekaran

...Petitioner

Vs

1.The Secretary to Government,
Agricultural Production and Commissioner,
Agricultural Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Agriculture,
Chepauk, Chennai - 5.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the punishment issued by the 1st respondent, the Secretary to Government, Agriculture Production and Commissioner, Agriculture Department, Fort St. George, Chennai - 9, in G.O.(3D) No.264, Agriculture (Vi.Ni.5) Department, dated 27.12.2013, quash the same as illegal issued by the respondent after inordinate delay without there being any proper



W.P.No.11031 of 2014

explanation for the same, consequently direct the respondents to disburse the terminal benefits of the petitioner.

For Petitioner : M/s.G.Sridevi

For Respondents : Mr.C.Kathiravan,
Special Government Pleader

ORDER

The order of punishment of reduction of Rs.200/- from the monthly pension of the petitioner herein, as well as for recovery of a sum of Rs.2,59,445/- from the Death-cum-Retirement Gratuity benefits, is put under challenge in the present Writ Petition.

2. The charges levelled against the petitioner, under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules'), were for certain delinquencies relating to the year 2003-2004. For the delinquencies that occurred in the year 2003-2004, the charges were framed on 18.09.2006, after a delay of about 3 years. Though the petitioner had submitted his explanation to the charge memo on 22.11.2006, the enquiry was kept pending for more than 6 years and on 28.04.2012, the Enquiry Officer had submitted his report. The petitioner had given his further



W.P.No.11031 of 2014

explanation on 22.05.2012 and thereafter, for almost 1 year, there was no further progress, which prompted the petitioner to file a Writ Petition in W.P.No.10574 of 2013 before this Court, seeking for quashing of the charge memo and by an order dated 18.04.2013, the respondents were directed to pass final orders in the disciplinary proceedings, within a period of 8 weeks from the date of receipt of the order. Even after such specific directions to pass final orders, the respondents had chosen to wait for about 8 months and ultimately, on 27.12.2013, the impugned order of punishment has been passed.

3. The learned counsel for the petitioner predominantly raised two grounds. Firstly, that there is an inordinate delay in initiation of the disciplinary proceedings, as well as conclusion of the same. Secondly, that the impugned order is a non-speaking order.

4. The learned Special Government Pleader for the respondents placed reliance on the averments in the impugned order and submitted that the enquiry was conducted in a fair and proper manner after giving due opportunity to the petitioner. It is his further submission that all the



W.P.No.11031 of 2014

objections and explanations rendered by the petitioner have been considered, while the impugned order was passed.

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

6. The procedures, as contemplated under Rule 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 Tamil Nadu Public Service Commission (TNPSC) and without any discussion, had imposed the punishment. Though the impugned order of punishment runs to about 20 pages, the findings of the Disciplinary Authority is found only in the penultimate paragraph of the order. Even therein, there is absolutely no findings, except for a solitary sentence that the Government have carefully considered the enquiry report and the TNPSC's views and had decided to impose the punishment of reduction of Rs.200/- from the monthly pension of the petitioner, as well as for recovery of a sum of Rs.2,59,445/- from the Death-cum-Retirement Gratuity benefits of the petitioner. The impugned order, therefore, is a non-



W.P.No.11031 of 2014

speaking order, passed without any application of mind, which is in total violation of the procedure contemplated under Rule 17(b) of the Rules.

7. The charges against the petitioner, through a charge memo dated 18.09.2006, relates to certain delinquencies that had occurred in the year 2003-2004. Though the petitioner had rendered his explanation to the charge memo on 22.11.2006, the enquiry was kept pending for more than 6 years and thereafter, the Enquiry Officer had submitted his report on 28.04.2012. Since there was no further progress, the petitioner had filed a writ petition in W.P.No.10574 of 2013 and by an order dated 18.04.2013, the respondents were directed to pass final orders in the disciplinary proceedings, within a period of 8 weeks. When such specific directions for completion of the disciplinary proceedings have been given this Court, there is a mandatory duty cast on the respondents to comply with such directions.

8. 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:

WEB COPY

“We are conscious of the fact that if there is noncooperation 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 noncooperation 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.”

9. The aforesaid observation of the Hon'ble Division Bench of this Court 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. Thus, the delay of 3 years in initiating the departmental proceedings and the delay of more than 8 months in passing the final order of punishment, after specific directions by this Court, is deemed to be an inordinate and unexplained delay on the part of the respondents. The impugned order, therefore, is also liable to be struck down on the ground of delay and laches.

10. In the result, the impugned order dated 27.12.2013 passed by the first respondent is quashed. Consequently, there shall be a direction to the first respondent to forthwith refund the amounts to the petitioner, which have already been recovered from the pension and death-cum-retirement gratuity benefits, pursuant to the impugned order dated 27.12.2013, within a period of



W.P.No.11031 of 2014

6 weeks from the date of receipt of a copy of this order. Accordingly, the Writ
Petition stands allowed. No costs. Consequently, connected miscellaneous
petition is closed.

20.10.2022

Index:Yes
Speaking order
hvk

To

- 1.The Secretary to Government,
Agricultural Production and Commissioner,
Agricultural Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of Agriculture,
Chepauk, Chennai - 5.



WEB COPY



W.P.No.11031 of 2014

M.S.RAMESH,J.

hvk

W.P.No.11031 of 2014

20.10.2022