



W.A.(MD)No.790 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2022

CORAM:

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

W.A.(MD)No.790 of 2022

and

C.M.P.(MD)No.6720 of 2022

- 1.The State of Tamil Nadu represented by the
Special Commissioner & Secretary to Government,
Department of Agriculture,
Fort St. George,
Chennai – 600 009.
 - 2.The Commissioner,
Department of Horticulture,
Ezhilagam,
Chepauk,
Chennai – 600 005.
 - 3.The Deputy Director of Horticulture,
Virudhunagar – 626 002.
- : Appellants
- Vs.
- : Respondent
- K.Arunachalam



W.A.(MD)No.790 of 2022

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent, against the order dated 22.11.2021 made in W.P.(MD)No.9220 of 2014.

For Appellants : Mr.A.K.Manikkam
Special Government Pleader

JUDGMENT

[Delivered by P.N.PRAKASH, J.]

One Mohamed Ali Jinnah, who was the Deputy Horticulture Officer in Sivakasi, was holding additional charge of Deputy Horticulture Officer, Srivilliputhur also. One Arunachalam was transferred and posted as Deputy Horticulture Officer, Srivilliputhur and he joined duty on 04.11.2011. Since Mohamed Ali Jinnah, who was holding the additional charge of Srivilliputhur, had not handed over the charge to Arunachalam, the latter sent a communication dated 21.04.2011, in this regard, to his higher officials. It appeared that Mohamed Ali Jinnah also has sent a communication, stating that he would return the missing stocks or otherwise, pay the cost of them. In this background, an inspection was conducted and by order dated 21.03.2013, a sum of Rs.2,84,080/- was determined as the value of the missing stocks at



W.A.(MD)No.790 of 2022

Srivilliputhur and Mohamed Ali Jinnah and Arunachalam were directed to pay a sum of Rs.1,42,040/- each [50% of Rs.2,84,080/-].

2.Aggrieved by the said order, Arunachalam filed an appeal to the Commissioner of Horticulture, on 17.02.2014, contending that he had joined duty only on 04.11.2011 and therefore, he cannot be mulcted with liability in respect of things that were done by the said Mohamed Ali Jinnah, who was incharge of the Srivilliputhur unit. During the pendency of the appeal, a further inspection was done and a revised order dated 12.08.2013 was passed, enhancing the value of the lost stocks to Rs.3,44,180/- and Arunachalam was directed to refund an additional sum of Rs.60,000/- apart from Rs.1,42,040/-.

3.Aggrieved by the order dated 12.08.2013, Arunachalam filed a writ petition in W.P.(MD)No.9220 of 2014, which has been disposed of by a learned Single Judge on 22.11.2021, with certain directions which are as under:

"13.To meet the ends of justice, this Court is passing the following order:

i. The impugned order, dated 12.08.2013, is set aside as far as the amount of Rs.1,72,090/- (Rupees One Lakh Seventy Two Thousand and Ninety only) is concerned.



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W.A.(MD)No.790 of 2022

ii. As far as the amount of Rs. 60,000/- (Rupees Sixty Thousand only) is concerned, the Government is directed to consider the petitioner's appeal, dated 17.02.2014, and pass orders within two months from the date of receipt of a copy of this order.

iii. The respondents are directed to revoke the suspension of the petitioner forthwith and disburse the terminal benefits at the earliest and continue the appeal proceedings for Rs.60,000/- under Pension Act."

4.Aggrieved by the above, the present Writ Appeal has been filed by the State Government.

5.Heard Mr.A.K.Manikkam, learned Special Government Pleader appearing for the appellants.

6.Learned Special Government Pleader contended that under Rule 17 of the Fundamental Rules, Arunachalam was required to send a report to his higher officials within seven [7] days of joining duty, but whereas, Arunachalam joined duty on 04.11.2011 and sent a report only on 21.11.2011 and therefore, Arunachalam is also equally liable as Mohamed Ali Jinnah.



W.A.(MD)No.790 of 2022

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7.The learned Single Judge has observed that, while the appeal of Arunachalam was pending with the Government, the revised order dated 12.08.2013 was passed and on the eve of retirement, Arunachalam was placed under suspension and recoveries effected. Just because Arunachalam had not reported to the authorities about the missing stocks within seven [7] days from 04.11.2011, that by itself cannot mean that Arunachalam is liable for the missing stocks, especially in the light of the fact that Mohamed Ali Jinnah has accepted that he would account for the missing stocks or *inter alia* make the payments for them. In such view of the matter, we do not find any infirmity in the order of the learned Single Judge, warranting interference.

8.In the result, the Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[P.N.P.J.] & [R.H.,J.]

03.08.2022

Index : Yes/No

Internet : Yes/No

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W.A.(MD)No.790 of 2022

P.N.PRAKASH, J.
and
R.HEMALATHA, J.

MR

ORDER MADE IN
W.A.(MD)No.790 of 2022

03.08.2022