



W.P.(MD).No.21307 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.21307 of 2019

P.Ramakrishnan

... Petitioner

Vs.

1.The Director of Agriculture,
Agriculture Department,
Chepauk,
Chennai – 600 005.

2.The Joint Director of Agriculture,
Sivagangai – 630 562.

3.The Assistant Director of Agriculture,
Sivagangai – 630 562.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent i.e., the Director of Agriculture, Chennai in his gxe1/2/144943/2018-1 dated 29.7.2019 and quash the same and consequently direct the first respondent for allowing the petitioner to retire and payment of all retirement benefits within a specified time frame that may be fixed by this Court.



W.P.(MD).No.21307 of 2019

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.P.Thambi Durai,
Government Advocate.

ORDER

This Writ Petition is filed challenging the charge memo dated 29.07.2019 and consequently direct the first respondent for allowing the petitioner to retire and to pay all retirement benefits.

2. The petitioner is an employee in the Agriculture Department and had attained superannuation on 31.12.2003. But was not allowed to retire on attaining the age of superannuation based on the proceedings dated 26.12.2003 for the reason that a criminal case was registered in F.I.R.No.11 of 2000 dated 14.11.2000 for offences under Sections 409 and 420 of IPC and subsequently numbered as CC.No.84 of 2012 on the file of the Judicial Magistrate Court No.2, Sivagangai.

3. Thereafter, the Criminal case ended in acquittal on 30.06.2017. After acquittal, the Joint Director of Agriculture, Sivagangai has sent a report to the Director of Agriculture, Chennai on 01.10.2018 after obtaining legal opinion.



W.P.(MD).No.21307 of 2019

In the report it has been stated based on the audit objection, the criminal case is filed and since the criminal case had ended in acquittal, the audit objection may be written off so that the petitioner may get retirement benefits. The contention of the petitioner is that the respondents have issued the present charge memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules) on the same set of facts where the criminal case was registered on 14.11.2000 and ended in acquittal on 30.06.2017. The disciplinary action initiated for the alleged delinquency that took place in the year 1992-1997 that is after the lapse of 22 years. Challenging the said charge memo, the present Writ Petition is filed.

4. The respondents have filed a counter affidavit stating that the petitioner is facing five charge memos and there is loss to the Government to the tune of Rs.28,82,797/- for five charge memos. The respondents could not initiate disciplinary proceedings against the petitioner, since the entire records were before the Criminal Court. Therefore, after completion of criminal case in the year 2017, the respondents have initiated action against the petitioner as per Rules. Since criminal proceedings are different from disciplinary proceedings, the acquittal of the petitioner cannot be a ground to drop the disciplinary



W.P.(MD).No.21307 of 2019

proceedings. Therefore, the respondents submitted the initiation of disciplinary proceedings even after 22 years is sustainable in law and prayed to dismiss this Writ Petition.

5. Heard Mr.S.Visvalingam, learned counsel for the petitioner and Mr.P.Thambi Durai, learned Government Advocate appearing for the respondents.

6. The only ground that was raised by the respondents for initiating departmental proceedings belatedly, is that the relevant documents are before the Criminal Court and the respondents could not initiate disciplinary proceedings. Such a plea is not sustainable in law, since in the present case, the FIR was filed on 14.11.2000 and subsequent charge sheet was filed in the year 2012 itself. Even if the case of the respondents is accepted, the delay from the date of filing charge sheet in the year 2012 to 2019 cannot be condoned at all. After filing of charge sheet in the criminal case, the respondents ought to have applied for the documents from the Criminal Court and ought to have proceeded further in the disciplinary proceedings. The respondents have not stated that they have applied for such documents in the year 2012 itself after



W.P.(MD).No.21307 of 2019

filing the charge sheet. In such circumstances, the plea of the respondents that the documents are not available, hence the disciplinary proceedings was not initiated, cannot be entertained.

7. The contention that was raised by the petitioner is that the alleged delinquency took place in the year 1992 and 1997, but the disciplinary proceedings have been initiated on 29.07.2019, which is after lapse of 22 years. The learned counsel appearing for the petitioner relied on the proceedings of the Joint Director of Agriculture Department dated Nil.09.2008, wherein, he has recommended to drop the proceedings. The reason stated is that in the year 1992-1993, 1996-1997, the yearly audit has not deducted any irregularities and has not raised any audit objections. Likewise, even the Government Commercial Project Audit which was conducted in the year 1992-1993 and 1996-1997, there was no audit objections raised. In such circumstances, the claim of the petitioner ought to be considered. Moreover, in the recommendation to drop the proceedings the respondents cited various reasons. In such circumstances, this Court is inclined to interfere with the charge memo.



W.P.(MD).No.21307 of 2019

WEB COPY 8. Hence, the impugned charge memo is quashed for the reasons cited above. It is made clear that this Court has quashed only charge memo dated 29.07.2019. The petitioner is facing four more charge memos, the petitioner and the respondents are at liberty to proceed with the said four charge memos in accordance to law.

9. In view of the reasons stated above, this Writ Petition is allowed.
There shall be no order as to costs.

15.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.21307 of 2019

To

WEB COPY

- 1.The Director of Agriculture,
Agriculture Department,
Chepauk,
Chennai – 600 005.
- 2.The Joint Director of Agriculture,
Sivagangai – 630 562.
- 3.The Assistant Director of Agriculture,
Sivagangai – 630 562.



WEB COPY



W.P.(MD).No.21307 of 2019

S.SRIMATHY, J.

Nsr

W.P.(MD).No.21307 of 2019

15.12.2022