



W.P.(MD) No.21001 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.21001 of 2019

V.A.Selvam

... Petitioner

Vs.

**The Government of Tamilnadu,
Agricultural Production Commissioner and
Principal Secretary,
Department of Agriculture,
St. George, Chennai – 9.**

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings in G.O.(3D).No. 114, Agriculture (AA8) Department, dated 22.07.2019 and G.O.(3D).No.128 Agriculture (AA8) Department, dated 24.06.2016 and quash the orders as illegal and consequently, direct the respondent to promote the petitioner to the post of Assistant seed Officer from 24.12.2007 onwards and consequent promotion to the post of Deputy Agriculture Officer from the year 2013, and



W.P.(MD) No.21001 of 2019

also consequently direct the respondent to pay the arrears of special grade pay from 08.12.2006 to 30.09.2017, within a stipulated period fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran

For Respondent : Mr.R.Ragavendran
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. For the incident that had occurred during the year 1991-1992, charges were framed against the petitioner through a charge memo, dated 06.01.2000, alleging that there was some loss to the Government in connection with the disbursement of seeds. Pursuant to the charges, an enquiry was conducted and after about four years, the charges were held to be proved through an Enquiry Report, dated 11.06.2004. Thereafter, 12 years lapsed and the final order of punishment of stoppage of increment for a period of one year without cumulative effect was passed on 24.06.2016. The petitioner herein challenges the punishment on the ground of delay in the disciplinary proceedings and enquiry.



W.P.(MD) No.21001 of 2019

WEB COPY

3. A learned Single Judge of this Court, in the case of ***Kootha Pillai Vs. The Commissioner, Municipal Administration and 4 others*** passed in ***W.P.No.15231 of 2006 dated 05.11.2008***, had an occasion to refer to various decisions of the Hon'ble Supreme Court and ultimately, held that the inordinate delay in initiating and completing the disciplinary proceedings, would cause prejudice to the delinquent and therefore, the proceedings itself cannot be continued. Some of the decisions referred to by the learned Single Judge in *Kootha Pillai (supra)* are as follows:~

“45. In State of Madhya Pradesh v. Bani Singh and another reported in 1990 (Supp) SCC 738, the Supreme Court had come down heavily against the latches on the part of the employer in conducting departmental enquiry and after finding out that there was no satisfactory explanation for the inordinate delay, held that it would be unfair to order departmental enquiry to proceed further.

46. In State of A.P., v. N.Radhakrishnan reported in 1998 (4) SCC 154, the Supreme Court, at Paragraph 19, held as follows:



WEB COPY



W.P.(MD) No.21001 of 2019

“Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings. Ultimately, the Court is to balance these two diverse considerations.”

47. In Union of India v. CAT reported in 2005 (2) CTC 169 (DB), this Court held that, “The delay remains totally unexplained. Therefore, we have no hesitation at all in concluding that the ground of inordinate delay in proceeding with the departmental enquiry as referred to above by us, would come in the way of the Govt., to continue with the enquiry any further.....”

48. In P.V.Mahadevan v. M.D. Tamil Nadu Housing Board reported in 2005 (4) CTC 403, this Court after referring to various decisions, held that, “The protracted disciplinary enquiry against a government employee should, therefore be avoided not only in the interest of the government employee



W.P.(MD) No.21001 of 2019

WEB COPY

but in public interests and also in the interests of inspiring confidence in the minds of the government employees. At this stage, it is necessary to draw the curtain and to put an end to the enquiry. The appellant had already suffered enough and more on account of the disciplinary proceedings. As a matter of fact, the mental agony and sufferings of the appellant due to the protracted disciplinary proceedings would be much more than the punishment. For the mistakes committed by department in the procedure for initiating the disciplinary proceedings, the appellant should not be made to suffer.

15. We therefore, have no hesitation to quash the charge issued against the appellant. The appeal is allowed. The appellant will be entitled to all the retiral benefits in accordance with law. The retiral benefits shall be disbursed within three months from this date. No cost.”

49. In the Special Commissioner and Commissioner of Commercial Taxes, Chepauk v. N.Sivasamy reported in 2005 (5) CTC 451, the Division Bench of this Court held as follows:



WEB COPY

W.P.(MD) No.21001 of 2019

“Though the alleged lapse occurred in the year 1995 and certain charges related to the period 1993~94, the charge memo was issued on 15.07.1997 and served on 23.07.1997, just 7 days before the date of retirement. The contention of the appellant that only with a view to cause hardship, agony and anguish, the charge memo was issued cannot be ignored..... We have already pointed out that though the applicant failed Original Application No.6284/97, challenging the charge memo, dated 15.07.1997, admittedly, no stay was granted. Despite the above fact that the department had not proceeded with the disciplinary proceedings, there is an inordinate and unexplained delay on the part of the department. According to the applicant, he is 67 years of age as on the date and had rendered 38 years of service in the department. He had undergone sufferings from mental worry, agony, anguish and hardship for all these years. We are satisfied that there is no need to pursue the charge memo, dated 15.07.1997.”

50. In yet another decision in R.Tirupathy and others v. the District Collector, Madurai District and



W.P.(MD) No.21001 of 2019

WEB COPY

others reported in 2006 (2) CTC 574, this Court was pleased to quash the charge memo, dated 02.02.2005 on the ground that the charges relate to purchase of uniforms during the year 1994~95 and 1995~96 and the inordinate delay on the part of the department in issuing a charge memo was not properly explained.

51. The Supreme Court in M.V.Bijlani v. Union of India and other reported in 2006 (5) SCC 88, quashed the order of removal from service, confirmed by the appellate authority on various grounds particularly, on the ground that initiation of disciplinary proceedings after six years and continuance thereof, for a period of seven years prejudiced the delinquent officer.

52. In M.Elangovan v. The Trichy District Central Co-operative Bank Ltd., reported in 2006 (2) CTC 635, this Court, while quashing the second show cause notice on the ground of inordinate and unexplained delay in initiating and completing the disciplinary proceedings, allowed the Writ Petitions holding that the petitioners therein were entitled to all the benefits in accordance with law. The same view has been expressed by this Court in yet another decision in



W.P.(MD) No.21001 of 2019

WEB COPY

*Parameswaran v. State of Tamil Nadu reported in 2006
(1) CTC 476.”*

4. In the light of the above decisions of the Honourable Supreme Court, the delay that had occurred in the disciplinary proceedings against the petitioner in initiating the charges in the year 2000 for the incident that had occurred in the year 1991-1992 and concluding the proceedings after about 16 years would be fatal to the respondent herein.

5. Accordingly, the impugned orders passed by the respondent in his proceedings in G.O.(3D).No.114, Agriculture (AA8) Department, dated 22.07.2019 and G.O.(3D).No.128, Agriculture (AA8) Department, dated 24.06.2016, are hereby quashed. Consequently, there shall be a direction to the respondent herein to forthwith pass orders, granting all the service and other monetary benefits, which the petitioner is entitled to in view of the quashing of the punishment, including notional promotion, whereby, orders shall be passed by notionally promoting the petitioner to the post of Deputy Agricultural Officer from the date, on which, his immediate junior was



W.P.(MD) No.21001 of 2019

WEB COPY

promoted. Such an order shall be passed within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, this writ petition stands allowed. No costs.

05.07.2022

Index : Yes / No
Speaking Order/ Non Speaking Order
TM

To

The Agricultural Production Commissioner and
Principal Secretary,
Government of Tamilnadu,
Department of Agriculture,
St. George, Chennai – 9.



WEB COPY



W.P.(MD) No.21001 of 2019

M.S.RAMESH,J.

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W.P.(MD) No.21001 of 2019

05.07.2022