



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2022

CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P. (MD)No.22741 of 2016

P.Thangaraju

... Petitioner

vs

1. The Agricultural Production Commissioner,  
and Principal Secretary to Government,  
Agricultural Department,  
Secretariat, Chennai - 600 009.

2. The Commissioner of Agriculture,  
Agriculture Department,  
Chepauk, Chennai - 600 005.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent i.e., the Agricultural Production Commissioner & Principal Secretary to Government, Chennai relating to G.O. (3D) No.268, Agriculture (Ntep7) Department, Chennai, dated 19.11.2016 and quash the same and consequently, direct the first respondent to reinstate the petitioner in service within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

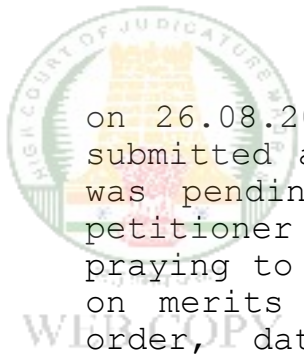
For Respondents : Mr.D.Sachikumar  
Additional Government Pleader

\*\*\*\*\*

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned G.O. passed by the first respondent i.e., the Agricultural Production Commissioner & Principal Secretary to Government, Chennai in G.O.(3D)No.268, Agriculture (Ntep7) Department, Chennai, dated 19.11.2016 and consequently, direct the first respondent to reinstate the petitioner in service within a specified time frame that may be fixed by this Court.

2. The petitioner was serving as an Assistant Director of Agriculture, Erumapatti, Namakkal District. The petitioner attained superannuation on 31.03.2017. For the alleged delinquency took place in the year 2007, a Charge Memo was issued to the petitioner



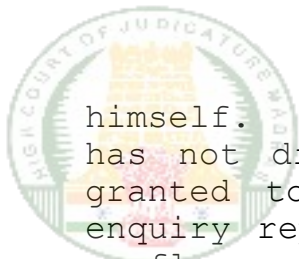
on 26.08.2013. After the proper enquiry, the Enquiry Officer had submitted a report that the charges were proved. Since the enquiry was pending, the promotion opportunity was affected. Hence, the petitioner has approached this Court in W.P.(MD)No.13234 of 2014, praying to direct the respondents to dispose the disciplinary action on merits within a period of three months and this Court, vide order, dated 21.08.2014, direct the Disciplinary Authority to complete the action within three months. However, after expiry of two years, the disciplinary action was pending, hence the Contempt notice was issued on 24.09.2016 and a contempt petition No.1413 of 2016 was filed. The respondents passed final orders in G.O.(3D) No.268 on 19.11.2016, imposing a punishment of compulsory retirement. Aggrieved over the same, the present writ petition.

3. The respondents have filed a counter affidavit stating that the petitioner has sold 2630 kg of sunflower seeds in the open market and has swindled the subsidy amount. The said sunflower seeds ought to be distributed to the farmers along with subsidy to them. Based on the allegation from the farmers that the petitioner stealthily sold the sunflower seeds, the records were scrutinized, the genuineness of the signature of the farmers, the statement with subsidy application triplicate bill book and subsidy registers, it was found the signatures did not coincide. On further verification and scrutiny of documents and facts it was decided to issue charge memo by the Commissioner of Agriculture. The seeds were transferred to Manaparai Division in the name of Agricultural Development Officer, in the delivery note no one has signed except the petitioner and he failed to that it is not his signature. Though the Depot Manager and Agricultural Development Officer is different, the Depot Manager has not signed anywhere in the transaction. Therefore the petitioner was held guilty of the charges and punishment was imposed and the same is legally sustainable and prayed to dismiss the petition.

4. Heard Mr. S. Visvalingam, learned Counsel appearing for the petitioner and Mr. D. Sachikumar, learned Additional Government Pleader appearing for the respondents.

5. The contention of the petitioner is that the charge memo was issued on 26.08.2013 for the alleged delinquency in the year 2007, hence the charge memo is a belated one. This plea ought to be taken at the earliest point of time that too after passing final orders, the petitioner is not entitled to challenge the Charge Memo as belated one and hence this Court rejects such plea

6. The allegation against the petitioner is he has not distributed the said sunflower seeds, thereby, the farmers could not get the subsidy. The petitioner has sold all the seeds in the open market and he has taken a subsidy, thereby, caused loss to the farmers. On perusing the records, it is seen that the respondents



himself. The Charge Memo was issued alleging that the petitioner has not distributed 3000 kg of sunflower seeds, thereby, subsidy granted to the farmers has not reached them. However, in the enquiry report it has been stated that it is only for 2630 kgs of sunflower seeds. In the record it has been noted the names of the eleven farmers who received the seeds with subsidy and the respondents had issued notice to the eleven farmers to appear for enquiry. But only three farmers appeared and deposed that they did not receive any seeds with subsidy from the petitioner. Thereafter the petitioner sought time to produce witness to prove his case, in the next hearing the petitioner produced three farmers as witnesses and they have stated that the petitioner has distributed the seeds along with subsidy. And four more farmers deposed that they received the seeds. But the enquiry officer has come to the conclusion that there is discrepancy in the witness of the farmers and the signatures of the farmers in the records and in deposition differs, therefore the charges are proved. The charge says 3000 kgs but the enquiry says 2630 kgs. Three farmers are against the petitioner and seven farmers deposed in favour of the petitioner. Taking a lenient view, the Government has imposed only compulsory retirement to the petitioner. Therefore, this Court is not inclined to interfere with the punishment of compulsory retirement.

7. The petitioner submitted that the government has issued another G.O. (3D) No. 233 Agriculture Department dated 19.10.2017 wherein it is stated the effect of compulsory retirement ordered in G.O. (3D) 268 Agriculture (AA7) Department dated 19.11.2016. In the said G.O. (3D) No. 233 it has been stated that Rs.500/- would be cut from the pension, the petitioner would be entitled to Rs.16,340/- but would receive Rs.15,840/-. It has also been stated there will be cut in gratuity to the tune of Rs.1,00,000/-, the petitioner would be entitled to Rs.10,00,000/- but would be receiving Rs.9,00,000/-. However this Court is inclined to modify the amount of pension alone, the cut in pension of Rs.500/- is set aside. The cut in gratuity to the tune of Rs.1,00,000/- is confirmed.

8. Therefore, with the above direction the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

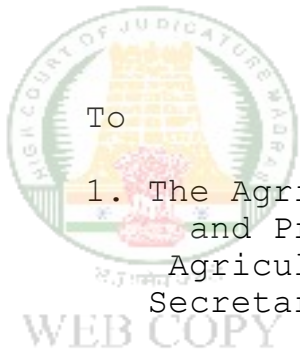
/ /2022

Sub Assistant Registrar(CS)

jbr

**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant



To

1. The Agricultural Production Commissioner,  
and Principal Secretary to Government,  
Agricultural Department,  
Secretariat, Chennai - 600 009.

2. The Commissioner of Agriculture,  
Agriculture Department,  
Chepauk, Chennai - 600 005.

+1 CC to M/s.SPL GP ( SR-1288[F] dated 11/01/2022 )

Order made in  
W.P. (MD) No.22741 of 2016  
07.01.2022

PKP/22.02.2022/4P/3C