



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2022

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD) No.17711 of 2017

K.Kalimuthu

..... Petitioner

..VS..

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

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

..... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent i.e., the Agricultural Production Commissioner & Principal Secretary to Government, Agriculture Department, Chennai relating to his orders, அரசாணை (3டி) எண். 166 வேளாண்மை (வேநி.5) துறை, நாள் 11.05.2015 and அரசாணை (3டி) எண் 28 வேளாண்மை (வேநி.5) துறை, நாள் 25.01.2017 and quash the same and consequently direct the respondents to include the name of the petitioner in the approved list of Assistant Director of Agriculture of the year 2010-11 on par with his junior Thiru.S.Babu whose serial Number is 24 in the above said approved list within a specified time frame that may be fixed by this Court.

For Petitioner : Mr. S.Visvalingam

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

O R D E R

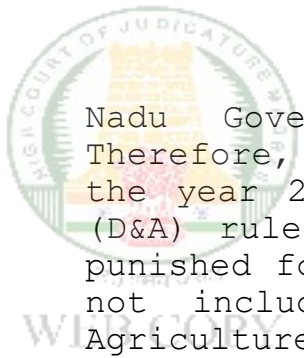
This writ petition has been filed to issue a Writ of Certiorarified Mandamus to quash the impugned order of the first respondent அரசாணை (3டி) எண்.166 வேளாண்மை (வேநி.5) துறை, நாள் 11.05.2015 and அரசாணை (3டி) எண் 28 வேளாண்மை (வேநி.5) துறை, நாள் 25.01.2017 and consequently direct the respondents to include the name of the



petitioner in the approved list of Assistant Director of Agriculture of the year 2010-11 on par with his junior Thiru.S.Babu whose serial Number is 24 in the above said approved list within a specified time frame.

2. The petitioner was serving as Assistant Director of Agriculture, Arimalam Block, Pudukkottai District at the time of filing writ petition. When the petitioner was serving as Agricultural Officer, as P.A.(Agriculture) under the Collector of Pudukkottai, charges were framed against the petitioner under Rule 17 (b) the Tamil Nadu Civil Services (Discipline & Appeal) Rules as per memo No.gxe.1/203014/2001-2, dated 17.05.2002. The charges are related to the alleged delinquency happened in the year 1998-2000. The charge against the petitioner is he did not produce the Stock Register, four numbers of used triplicate bill books to the audit of State Trading Scheme and responsible for the loss of those records. The petitioner submitted an explanation on 13.09.2002 and an Enquiry Officer was appointed on 11.11.2003 and the enquiry was conducted on 28.01.2004. The Enquiry Officer submitted report on 23.04.2004 stating that the charges are not proved. The enquiry report was communicated to the petitioner on 28.05.2014 i.e., after a delay of ten years directing the petitioner to submit further explanation. The petitioner submitted a further explanation dated 16.07.2014 on the said enquiry report. Thereafter, the Government passed final orders in G.O.(3D) No.166, Agriculture Department, dated 11.05.2015 inflicting a punishment of censure. Aggrieved over, the petitioner preferred a Review Petition on 10.08.2015 and the same was dismissed by the Government in G.O.(3D) No.28, Agriculture Department dated 25.01.2017. Aggrieved over the same, the present writ petition has been filed.

3. The respondents have filed a counter statement stating that the petitioner was responsible for the failure to produce the Vettanviduthi Agricultural Extension Centre's Stock Register to the State Trading Scheme audit for the period 1998 to 1999 and 1999 to 2000. He has not produced four number of triplicate bill books which was used in the Mazhaiyur Agricultural Extension Centre for the period from 16.04.1998 to 25.08.1998 to the audit and he was responsible for the loss of those bill books. Likewise, he failed to produce the Stock Register of Vettanviduthi Agricultural Extension Centre and triplicate bill books of Mazhaiyur Agricultural Extension Centre to the Audit (who had holding additional charge of Depot Manager). Therefore, the charge memo was issued and an Enquiry Officer was appointed. Thereafter, enquiry was conducted and the report was submitted. Even though the delinquent officer failed to produce triplicate bill books which was used in the Mazhaiyur Agricultural Extension Centre for the period 1998 to 2000 and soon after irregularities were discovered, the disciplinary proceedings were initiated. Therefore, there is no delay, the check period prescribed in G.O. was quashed, however the same is incorporated in



Nadu Government Servants (Condition of Service) Act 2016. Therefore, the petitioner was not eligible to grant promotion for the year 2010 - 2011, since charges under Rule 17(b) of the TNCS (D&A) rules was pending against him and subsequently he has been punished for the said charges. Therefore, the petitioner herein was not included in the approved list of Assistant Director of Agriculture for the year 2010- 2011.

4. The learned counsel for the petitioner submitted the alleged the delinquency were related to the year 1998 to 2000 and the charge memo was issued on 17.05.2002 and the same is belated charge memo and the same is liable to be quashed. The petitioner submitted an explanation on 13.09.2002 and the petitioner participated in the enquiry process and the enquiry was conducted on 28.01.2004 and the charges were held "not proved". The Enquiry Officer submitted a report on 23.04.2004 to the first the respondent but the 1st respondent after the lapse of 10 years, issued a second show cause notice 28.05.2014 along with the enquiry report directing the petitioner to submit explanation for the enquiry report. In pursuant to the enquiry report, the petitioner submitted his explanation. Even though the Enquiry report stated that the charges were not proved, the respondent proceeded to impose punishment to the petitioner. The respondents without considering the explanation of the petitioner, imposed the punishment of censure.

5. On perusing the affidavit and the documents, this Court is of the considered view that the charge memo itself is delayed charge memo. On perusing the charges this Court is of the considered view that the charges are very vague. There respondents have not stated any reasons for deviating from the enquiry report. The punishment of censure was imposed after lapse of more than 10 years. Moreover, the impugned order is a non-speaking order. Without considering the explanation of the petitioner, the respondents imposed the punishment of censure. Even though the charges are not proved, the punishment was imposed on the petitioner.

6. Hence this Court is directing the respondents to include the name of the petitioner in the approved list of Assistant Director of Agriculture of the year 2010-11 on par with his junior and to grant the promotion within a period of six weeks from the date of receipt of copy of this order.

7. With the above direction, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)



To

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

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

+1 CC to M/s.SPL GP (SR-10319[F] dated 07/03/2022)

W.P(MD) No.17711 of 2017
04.03.2022

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