



W.P.No.13786 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

**W.P.No.13786 of 2016**  
**and**  
**W.M.P.No.12094 of 2016**

Dr.K.Alagarsamy

...Petitioner

-Vs-

- 1.The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Animal Husbandry, Dairying &  
Fisheries Department,  
Fort St. George, Chennai – 600 009.
- 2.The Director,  
Animal Husbandry and Veterinary Services,  
Teynampet, Chennai - 600 006.
- 3.The Regional Joint Director,  
Animal Husbandry, Tirunelveli.
- 4.The Tribunal for Disciplinary Proceedings,  
Rep. by its Commissioner,  
Kuralagam, Chennai.

...Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India,  
praying to issue a Writ of Certiorarified Mandamus, calling for the records of



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the 1<sup>st</sup> respondent in his proceeding in G.O.(D) No.413, dated 01.10.2015 and quash the same and consequently directing the respondents herein to sanction the petitioner's pension forthwith.

For Petitioners : Mr.D.Srinivasa Raghavan  
for Mr.M.Sivavarthan

For Respondents : Mr.M.Shahjahan,  
Special Government Pleader

### **ORDER**

The petitioner herein was appointed as a Veterinary Assistant Surgeon in the Animal Husbandry department on 17.12.1974 and was later promoted to the cadre of Deputy Director of Animal Husbandry. During his tenure of service as Deputy Director of Animal Husbandry, he was implicated for a charge of misconduct under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules'), through a charge memo dated 29.10.2009, alleging that he, along with the then Director of Animal Husbandry and Veterinary Services, have issued sanction orders for purchase of Refrigerators at a cost of Rs.52.31 lakhs, by deliberately flouting and violating the tender rules and procedures. Not being satisfied with the written explanation rendered by the petitioner to the levelled charge, a



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departmental enquiry was conducted, wherein the charge was held to be proved, in the enquiry report dated 13.08.2010. The Government/first respondent, through their proceedings dated 31.10.2013 had accepted the findings of the enquiry officer and had called upon the petitioner to render his further explanation. The petitioner had given his further explanation on 30.11.2013. After about two years, the opinion of the Tamil Nadu Public Service Commission (TNPSC) was obtained on 23.07.2015 and ultimately, the Government had passed the impugned order dated 01.10.2015, imposing the punishment of pension cut of Rs.50/- per month for a period of one year. Challenging the said order, the present writ petition has been filed.

2. The learned counsel for the petitioner predominantly raised two grounds. Firstly, that the impugned order is a non-speaking order. Secondly, the views of the TNPSC was not supplied to the petitioner before the impugned order of punishment was passed.

3. Per contra, the learned Special Government Pleader appearing for the respondents placed reliance on the averments in the counter affidavit and



submitted that all the procedures contemplated for conduct of departmental proceedings have been scrupulously followed and there is no infirmity in the procedures. He further submitted that the first respondent herein had considered the charges, findings of the enquiry officer, as well as the explanation rendered by the petitioner and after obtaining the views of the TNSPC, had imposed the punishment.

4. I have given careful consideration to the submissions made by the respective counsels.

5. Insofar as the first ground raised by the learned counsel for the petitioner that the impugned order is a non-speaking order is concerned, it is seen that the procedures, as contemplated under Rule 17(b) of the Rules, have been given a go-by in the instant case. A perusal of the impugned order reveals that the respondents herein had extracted the findings of the enquiry officer, as well as the advice of the TNPSC and without any discussion, had imposed the punishment. Though the impugned order of punishment runs to about 23 pages, the findings of the Disciplinary Authority is found only in the penultimate



paragraph of the order. Even therein, there is absolutely no findings, except for a solitary sentence that the Government have carefully considered the enquiry report and the TNPSC's views and had decided to impose the punishment of pension cut of Rs.50/- for a period of one year. Thus, the impugned order of punishment is not only one suffering from non-application of mind, but also is a non-speaking order.

6. Insofar as the second ground that the petitioner has not been supplied with the views of the TNPSC is concerned, this procedure has been held to be impermissible in various decisions of this Court, including the order of an Hon'ble Division Bench of this Court in ***Union of India, Ministry of Defence and another vs. the Registrar, Central Administrative Tribunal, Chennai and another*** reported in ***(2005) 2 MLJ 154***, wherein it was held that the delinquent employee would be entitled to a copy of the report of the Public Service Commission, before passing of an order of punishment. Further, non-furnishing of the report would also disable the delinquent officer to give an effective objection, since he would be deprived of knowing the contents of the report. Thus, the manner in which the disciplinary proceedings had culminated



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into the impugned punishment, regulations and scaled proportion, is contrary to the regulations and settled propositions of law. Therefore, on this ground also, the impugned order of punishment cannot be sustained.

7. For all the foregoing reasons, the impugned order dated 01.10.2015 passed by the first respondent herein is quashed. Consequently, there shall be a direction to the first respondent to forthwith pass orders, sanctioning the pensionary benefits from the date of the petitioner's retirement, within a period of four (4) weeks from the date of receipt of a copy of this order.

8. The writ petition stands thus allowed. No costs. Consequently, connected miscellaneous petition is closed.

**03.01.2023**

Index:Yes/No

Internet:Yes/No

Speaking order/Non-speaking order

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WEB COPY

- To
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**M.S.RAMESH,J.**

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