



WEB COPY



W.P.No.21165 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.21165 of 2015

Dr.K.Alagarsamy

..Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Animal Husbandry, Dairying & Fisheries Department,
Fort St. George, Chennai.

2.The Director,
Animal Husbandry and Veterinary Services,
Teynampet, Chennai – 600 006.

3.The Regional Joint Director,
Animal Husbandry Department,
Tirunelveli.

4.The Deputy Director of Animal Husbandry,
Cattle Breeding & Fodder Development,
Tirunelveli – 627 010.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in his proceedings in G.O.(D) No.101, dated 03.03.2015 and quash the same and consequently directing the respondents herein to sanction the petitioner's pension forthwith.



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For Petitioner : Mr.D.Srinivasaragavan
For Respondents : Mr.U.M.Ravichandran,
Special Government Pleader

ORDER

The writ petition has been filed seeking issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent in his proceedings in G.O.(D) No.101, dated 03.03.2015 and quash the same and consequently direct the respondents herein to sanction the petitioner's pension forthwith.

2. The case of the petitioner is that while the petitioner was working as a Deputy Director of the Animal Husbandry Department, the 1st respondent issued a charge memo containing six charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1956. The petitioner had submitted a detailed reply denying all the charges levelled against him. The 1st respondent without being satisfied with the reply appointed an enquiry officer and the enquiry officer submitted a report dated 22.02.2011 holding all the charges proved except the 1st charge. The 1st respondent after receipt of the above report called for further representation from the petitioner. The petitioner in his further representation denied the



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proved charges against him. Pending enquiry proceedings, the petitioner was allowed to retire from service with effect from 30.04.2009 with a condition to proceed against him under the Pension Rules. Upon receipt of the further representation, the 1st respondent by the impugned G.O dated 03.03.2015 imposed a punishment of “Pension Cut of Rs.100/- per month for a period of one year” by holding that the 5th charge as partly proved and the 3rd charge as proved.

3. The learned counsel for the petitioner would state that the petitioner as a Rinderpest Officer was giving technical advise for controlling the widespread bird flu and blue tongue diseases and in the matter of financial involvement in implementing the scheme, it was the Financial Adviser and Chief Accountant Officer to look out and comply with all the statutory requirements and not the petitioner. He would also state that there is no reasons assigned for the order being passed by the 1st respondent. He would further state that the views of the TNPSC was not supplied to the petitioner before the impugned order of punishment was passed. Hence, the punishment imposed on the petitioner has to be set aside.



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4. Per contra, the learned Special Government Pleader appearing for the respondents would state that all the procedures contemplated for conduct of departmental proceedings have been scrupulously followed and there is no infirmity in the procedure. He would further state that the 1st respondent had considered the charges, findings of the enquiry officer as well as the explanation rendered by the petitioner and imposed the punishment.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. In the instant case, a perusal of the impugned order reveals that the respondents herein had extracted the findings of the enquiry officer and without any discussion had imposed the punishment. Further the views of the TNPSC has to be supplied to the petitioner before passing the order of punishment. The 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, had held



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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.

Thus, the manner in which the disciplinary proceedings had culminated into the impugned punishment is contrary to the Regulations and settled propositions of law.

7. In view of the above, the writ petition is allowed and the impugned order dated 03.03.2015 passed by the 1st respondent is quashed. Consequently, there shall be a direction to the 1st respondent to forthwith pass orders, sanctioning the pension benefits from the date of petitioner's retirement, within a period of four (4) weeks from the date of receipt of a copy of the order. No costs.

07.03.2023

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Index : Yes/No

Internet : Yes/No

Speaking order/ Non-Speaking order



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To

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J.NISHA BANU, J.

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