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W.P.No.11223 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.11223 of 2023 and
W.M.P.Nos.11087 & 11088 of 2023

J.Raja Sampath Kumar

... Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Agricultural Department,
Chief Secretariat,
Chennai – 600 009.

2.The Commissioner of Agriculture,
Chepauk, Chennai – 600 005.

3.The Director of Agriculture,
Chepauk, Chennai – 600 005.

4.The Joint Director of Agriculture,
Now Chengalpet District and Post.

5.The Assistant Director of Agriculture,
Agricultural Extension Centre,
Maduranthakam Post,
Now Chengalpet District and Post.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari filed Mandamus against the respondents herein calling for the records of the 1st respondent culminating in his proceedings G.O.(3D).No.26, Agriculture-Farmers Welfare (AA5) Department, dated 03.03.2023, quash the same and to direct the respondents 1 to 3 pay the entire monetary benefits accrued interest with arrears of pension etc., to the



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petitioner herein within a reasonable period of time that may be stipulated by this Court.

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For Petitioner : Mr.V.Ragupathy
For Respondents : Mr.P.Baladhandayutham,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the punishment imposed in G.O.(3D).No.26, Agriculture-Farmers Welfare (AA5) Department, dated 03.03.2023 passed by the 1st respondent and to direct the respondents 1 to 3 pay the entire monetary benefits accrued interest with arrears of pension etc., to the petitioner within a reasonable period of time.

2.The 1st respondent has imposed the punishment of pension cut of Rs.100/- for two years. The exchequer loss made by the petitioner is Rs.3,54,494/-. However, the eligible Death-cum-Retirement Gratuity of the petitioner works out to Rs.3,06,785/- only. Besides recovering Rs.3,06,785/- in full, the outstanding excess amount of Rs.47,709/- has been ordered to be recovered in 17 installments at the rate of Rs.2,939/- per month for 16 months and Rs.685/- for one month to set right the aforementioned exchequer loss of Rs.3,54,494/- made by the petitioner.



3.The case is that while the petitioner was working as Depot Manager (Grade-II) in Gummidipoondi Agricultural Extension Centre between the period from 06.11.1998 to 12.09.2002, an inspection was made by the Assistant Director of Agriculture from the office of the respondents 2 and 3 on 07.09.2002. Upon physical verification, it was observed that the actual stock registered in the Extension Centre's stock register did not match with the physical stock, stocked in the said Centre. Such misappropriation was brought into light of the respondents by the audit authorities whom conducted the State Trading Scheme audit for the years 1999-2000 to 2005-2006. Therefore, the petitioner was issued with the charge-memo, dated 28.11.2008 in respect of certain irregularities in maintaining the accounts. The enquiry report was filed on 10.04.2012 and now, the impugned order has been passed on 10.03.2023 after obtaining the recommendation from the Tamil Nadu Public Service Commission, dated 22.02.2017

4.The learned counsel appearing for the petitioner submitted that there is huge delay of 14 years in passing the impugned order which is highly arbitrary. Though the enquiry report was filed in the year 2012, the impugned order has only been passed with delay of 14 years which infact



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caused much inconvenience. The learned counsel further submitted that even before passing the impugned order, the recommendation of the Tamil Nadu Public Service Commission has not been served on the petitioner which infact violates the Principle of Natural Justice. The recommendation of the Tamil Nadu Public Service Commission makes very clear that the petitioner is permitted to retire from service on 30.11.2008, therefore, he should be given opportunity to look into the documents to prove the rectification. Despite such recommendation, no opportunity is given nor the recommendation of the Tamil Nadu Public Service Commission is furnished to the petitioner. Hence, prays for quashing the impugned order, dated 10.03.2023.

5.It is the contention of the respondents in the counter that since there was misappropriation to the tune of Rs.4,20,932/- in the year 2003 and the same was found in the audit in the year 1999-2000 to 2005-2006, a charge-memo, dated 28.11.2008 has been issued against the petitioner.

6.Heard the submissions made on either side and perused the entire materials available on record.



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7. Though the entire counter is on the factual aspects, no reason whatsoever given for such huge delay in completion of the enquiry proceedings against the petitioner. On the other hand, the charge itself has been issued at the fag end of the service of the petitioner merely on the ground of audit objection. Having issued the charge in the year 2008 and filed the enquiry report in the year 2012, the disciplinary authority was sitting over the files for all these years. Even in the recommendation of the Tamil Nadu Public Service Commission, it is indicated that opportunity should be given to the petitioner to find out any rectification has done in the documents. Despite such recommendation, on perusal of the impugned order, the same indicates that no such opportunity is given to the petitioner. Infact, the enquiry has been proceeded as if the documents are not available. Further, the copy of the recommendation of the Tamil Nadu Public Service Commission has not been served to the petitioner. Non serving the copy infact violates the Principle of Natural Justice. Besides as recommended by the Tamil Nadu Public Service Commission, no opportunity whatsoever given before imposing the punishment that too after the petitioner was permitted to retire from the service.



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8.In such view of the matter, this Court finds that this is a clear case of violation of Principle of Natural Justice. Accordingly, the impugned order passed by the 1st respondent, dated 10.03.2022 cannot be sustained in the eye of law not only on the ground of huge delay but also for violation of Principle of Natural Justice.

9.In the light of the above discussion, the impugned order, dated 10.03.2023 passed by the 1st respondent stands quashed. This Writ Petition is allowed accordingly. No costs. Consequently, the connected Miscellaneous Petitions are closed.

11.09.2023

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

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N.SATHISH KUMAR, J.
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