



W.P.(MD)No.16833 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.16833 of 2016

and

W.M.P(MD)Nos. 12207, 12208 of 2016

N.S.Saravanan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Agricultural Production Commissioner &
Secretary to Government,
Agricultural Department,
Secretariat, Chennai -9.
2. The Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar,
Frazer Bridge Road,
Near Broadway Bus stand,
Chennai – 3.
3. The Director of Agriculture,
The Directorate of Agriculture,
Chepauk,
Chennai – 3.



W.P.(MD)No.16833 of 2016

WEB COPY

4. The Joint Director of Agriculture,
Velu Nachiyar Complex,
Collectorate,
Dindigul, Dindigul District.

5. The Assistant Director of Agriculture,
Panchayat Union Office Campus,
Reddiyarchatram, Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Arasu Aanai(3D) No. 48, Agriculture Department, dated 04.03.2016 confirming the order passed by the 1st respondent in his proceedings in G.O.(3D). No.313 Agriculture Department dated 27.12.2006 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran, for
M/s.Ajmal Associates.

For R-1, 3 to 5 : Mr.M.Lingadurai
Special Government Pleader

For R-2 : Mr.J.Anandkumar,
Standing Counsel

ORDER

This writ petition has been filed for *Writ of Certiorari* to quash the Arasu Aanai(3D) No. 48, Agriculture Department, dated 04.03.2016, confirming the order of the 1st respondent in G.O.(3D). No.313 Agriculture Department, dated 27.12.2006.



W.P.(MD)No.16833 of 2016

WEB COPY

2. Heard Mr.H.Mohammed Imran, for M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for R-1, 3 to 5 and Mr.J.Anandkumar, learned Standing Counsel, appearing for R-2. Perused the material documents available on record.

3. The petitioner has joined the service on 06.02.1989. A charge memo, dated 25.12.1996 was issued. The 1st charge against the petitioner is that without verifying the genuineness of the farmers has issued recommendation letter to non-farmers for buying paddy seeds for 400 Kgs., on 28.03.1989. The second charge is based on the 1st charge that the petitioner has misappropriated money by creating bogus records. The petitioner has submitted an explanation, stating that the petitioner was appointed on 06.02.1989 and he had hardly completed two months after joining the post. Since he is a new comer, the petitioner was not familiar with his work. But, the respondents have imposed punishment of stoppage of increment for 3 years with cumulative effect. The charge has been levelled against the Secretary and other persons also, but has



W.P.(MD)No.16833 of 2016

WEB COPY

imposed a lesser punishment of cut in the pensionary benefits to the tune of Rs. 600/- only.

4. The contention of the petitioner is that for the alleged delinquency which was committed in the year 1988-1989, the charge memo was issued on 25.12.1996 and thereafter, the impugned punishment order was passed in the year 2006, citing the charge memo the petitioner was so deprived in granting promotion. Therefore, the petitioner is before this Court.

5. The respondents have filed counter stating that the punishment was imposed and implemented. During 1990, some irregularities were committed by several officers. Therefore, the Department of Vigilance and Anti-Corruption has conducted enquiry and a departmental proceeding was also initiated. The said allegations were enquired and investigated by the Department and prima facie case was found out and therefore, enquiry was proceeded with including the petitioner. As far as the punishment is concerned, the loss is less in the cases of other delinquents and some of the delinquents were on verge of retirement. Since punishment cannot be imposed beyond the period of superannuation the



W.P.(MD)No.16833 of 2016

WEB COPY

punishment of stoppage of increment for three months and cut in the pension was granted. The petitioner was imposed punishment of stoppage of increment for 3 years with cumulative effect based on the gravity of charge. The punishment is proportionate to the charge and the same is imposed as per law. Hence, the respondents prayed the writ petition may be dismissed.

6. On perusal of the charge, it is seen that the petitioner without verifying the genuineness of the farmers has granted the seeds to the non-farmers and the alleged delinquency is 1988-1989. The petitioner joined the service on 06.02.1989 and he has followed the list of farmers list which were maintained the respondents' office and has issued the recommendation letter on 28.03.1989. The petitioner had issued within one month after he joined the service. Hence, it is evident that the petitioner had followed the list already maintained by the office of the respondent. Moreover, the petitioner was a fresher in the said post before getting acquaintance with the farmers, he could have created any records. Therefore, the allegation that the petitioner had created bogus documents is unbelievable.



W.P.(MD)No.16833 of 2016

WEB COPY

7. It is seen from the charges, that there is no specific overt against the petitioner. Moreover, the delinquent was committed in the year 1989. The charge memo was issued on 25.12.1996 and punishment was imposed in the year 2006. The contention of the respondents is that the persons who are working in the said post including the petitioner have committed similar irregularities, therefore, the Vigilance and Anti-Corruption have taken an action against them. The respondents have also taken action against all erring officials. Hence there was a delay in taking action. This reason of the respondents may sound convincing, but fact remains that the charge memo was issued belated and hence the very charge memo ought to be interfered.

8. Literally, the petitioner has faced the said charge for the past 20 years, almost his entire career. This has affected his promotional opportunities. The petitioner was granted promotion, after passing the impugned order, i.e., on 25.12.2012.

9. The next contention of the petitioner is that the co-delinquents were imposed lesser punishment. On perusing the punishment, it is seen that two



W.P.(MD)No.16833 of 2016

WEB COPY

persons were imposed punishment of cut in the pension of Rs.500/-, Rs.600/-. But for the petitioner the punishment it is stoppage of increment for three years with cumulative effect. Therefore, this Court is of the considered opinion that the punishment imposed on the petitioner is absolute discriminatory and disproportionate for the charges against the petitioner. Hence, this court is of the considered opinion that the punishment ought to be modified.

10. Accordingly, this Court is modifying the punishment as six months without cumulative effect. The order shall be implemented within a period of two months from the date of receipt of a copy of the order. The petitioner is entitled to the consequential benefits. The petitioner's name may be considered for promotion notionally.

11. With these directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes
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09.03.2023



W.P.(MD)No.16833 of 2016

WEB COPY

To

1. The State of Tamil Nadu,
Represented by its Agricultural Production
Commissioner & Secretary to Government,
Agricultural Department,
Secretariat,
Chennai -9.
2. The Director of Agriculture,
The Directorate of Agriculture,
Chepauk,
Chennai – 3.
3. The Joint Director of Agriculture,
Velu Nachiyar Complex,
Collectorate,
Dindigul, Dindigul District.
4. The Assistant Director of Agriculture,
Panchayat Union Office Campus,
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Dindigul District.



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W.P.(MD)No.16833 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.16833 of 2016**

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