



W.P. No.12068 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P. No.12068 of 2017

and

W.M.P. No.12921 of 2017

R.Chandrajini

...Petitioner

Vs.

State of Tamil Nadu
Represented by the Agricultural Production
Commissioner and Secretary to Government,
Agriculture Department,
Secretariat, Chennai-600 009.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records in the order bearing G.O.(D)No.7, Agriculture (Ve.Ni-2) Department dated 06.01.2017 passed by the Respondent and quashing the same.

For Petitioner : Mr.M.Radhakrishnan

For Respondent : Mrs.S.Anitha
Special Government Pleader



W.P. No.12068 of 2017

ORDER

The writ petition is filed challenging the order bearing G.O.(D)No.7, Agriculture (Ve.Ni-2) Department dated 06.01.2017 passed by the Respondent.

2. The petitioner joined the Respondent – Department on 11.09.1987 and was working as Assistant Agricultural Officer (Marketing), Koliporvillai, Kanyakumari District. On 03.10.2003, the petitioner was issued with a charge memo by the Respondent invoking Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner challenged the charge memo in a writ petition which ended in W.A.(MD)No.913 of 2012. This Court vide order dated 23.02.2015 disposed of the writ petition with a direction to the Respondent to pass final order after conducting the enquiry within a period of 4 weeks. The enquiry was thereafter conducted and the same concluded in favour of the petitioner. The enquiry officer found that the charges against the petitioner were not proved. The disciplinary authority vide impugned order gave his dissenting report on the charges. Aggrieved by the impugned order, the petitioner has filed this writ petition.



W.P. No.12068 of 2017

3. The learned counsel relying on the judgment of the Hon'ble Supreme Court in the case of ***Punjab National Bank and others vs. Chief Personnel (Disciplinary authority), Punjab National Bank and others*** reported in ***(1998) 7 SCC 84*** submitted that the procedure adopted by the Respondent was against the principles of natural justice and the same deserved to be set aside.

4. The learned counsel for the Respondent on the otherhand submitted that the disciplinary authority had given reasons for differing with the enquiry officer's report and therefore the impugned order was validly passed.

5. Heard both the counsels and perused the materials placed on record.

6. As rightly contended by the petitioner's counsel the enquiry report was not annexed with the impugned order and therefore there is violation of principles of natural justice. The Hon'ble Supreme Court in the case of ***Punjab National Bank*** (cited supra) held as follows:



W.P. No.12068 of 2017

“19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”

7. The facts of the aforesaid case squarely apply to the facts of the present case. The respondent in order to comply with principles of natural justice ought to have enclosed a copy of the enquiry report along with his dissenting report so as to enable the petitioner to file a representation in support of the enquiry report which was in his favour.

8. In my view, on this short ground, the impugned order deserves to be set aside and is set aside. The Respondent is directed to issue show cause notice to the Respondent along with the copy of the enquiry report and his



W.P. No.12068 of 2017

WEB COPY
dissenting views within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall within a period of 2 weeks from the date of receipt of the show cause notice send her reply. On receipt of reply the Respondent shall pass orders in accordance with law and on merits within a period of two weeks. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2024

Index : Yes / No
Speaking (or) Non-Speaking order
Neutral Citation: Yes / No
mka

N.MALA, J.

mka



W.P. No.12068 of 2017

To:
The Agricultural Production
Commissioner and Secretary to Government,
Agriculture Department,
Secretariat, Chennai-600 009.

W.P. No.12068 of 2017
and
W.M.P. No.12921 of 2017

21.08.2024