



W.P.(MD).No.4100 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4100 of 2023

and

W.M.P(MD) No. 3942 of 2023

K.Kannan

Vs.

... Petitioner

1. The State of Tamil Nadu,
Represented by its Secretary &
Commissioner of Agricultural Production,
St.George Fort,
Chennai.

2. The Director of Agriculture,
Office of the Director of Agriculture,
Chepauk,
Chennai – 5.

3. The Joint Director,
Office of the Joint Director of Agriculture,
Nirubar Colony,
Palayamkottai,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent vide G.O.(3D).No.261, Agriculture Ulavar Nala (Ve.Ni.7) Department, dated 17.12.2014 and consequential impugned order passed by the first respondent vide G.O.(3D) No.92 Agriculture-Ulavar Nala (Ve.Ni.7) Department dated 18.03.2015 and consequentially impugned order passed by the first respondent vide G.O.(D) No.144, Agriculture-Ulavar Nala (Ve.Ni.7) Department dated 03.06.2022 and quash the same as illegal and consequentially directing the respondents to refund the recovered amount of the petitioner Rs.4,22,839/- and considered the petitioner for notional promotion on par with his junior and accordingly to consider the petitioners all monetary benefits within the time that may be stipulated by this Court.

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

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by an Agricultural Officer, challenging the final orders passed in the disciplinary proceedings on 17.12.2014, wherein the petitioner has been imposed with a punishment of



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postponement of increment for a period of two years with cumulative effect and an order of recovery of a sum of Rs.4,22,839/- which was confirmed. The petitioner has also challenged the Government Order in G.O.(3D) No.92, Agriculture-Ulavar Nala (Ve.Ni.7) Department, dated 18.03.2015, wherein punishment has been imposed upon the writ petitioner under the Pension Rules to recover a sum of Rs.200/- per month for a period of one year. Further, the petitioner has also challenged G.O.(D) No.144, Agriculture-Ulavar Nala (Ve.Ni.7) Department dated 03.06.2022, wherein the request of the petitioner for refund of a sum of Rs.4,22,839/- has been rejected.

2. The petitioner herein, who was working as an Agricultural Officer was issued with a charge memo on 08.06.1998 under Rule17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner has submitted his explanation on 28.07.1998 and based upon the enquiry report, the Department had consulted the Tamil Nadu Public Service Commission. Thereafter, G.O.(3D)No.60, Agriculture (AA7) Department, dated 03.03.2008 was issued, wherein the petitioner was imposed a punishment of stoppage of increment for a period of two years with cumulative effect, besides an order of recovery of a sum of Rs.4,22,839/- and a sum of Rs.29,964/- to be



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recovered from the salary of the petitioner in 22 monthly instalments. This order was put to challenge by the writ petitioner in W.P.(MD)No.5004 of 2008 before this Court. This Court, by an order, dated 03.10.2012, had quashed the Government Order and remitted the matter back to the authorities to consider the material on record and also the defence put up by the petitioner and pass appropriate speaking orders. This Court made it clear that till such exercise is completed by the authorities, the recovered amount shall not be refunded.

3. In compliance with the orders of this Court, the present impugned order has been passed in G.O.(3D)No.261, Agriculture (Ve.Ne.7) Department dated 17.12.2014, again imposing the same punishment of postponement of increment for a period of two years with cumulative effect. In the said order, the authorities have refused to refund the recovered amount on the ground that this Court in the order dated 03.10.2012, had given liberty to the Department to retain the said amount.

4. The authorities have also passed an order in G.O.(3D) No.92 Agriculture-Ulavar Nala (Ve.Ni.7) Department dated 18.03.2015, imposing a



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punishment of cut in pension at the rate of Rs.200/- per month for a period of one year. The petitioner has given a representation to the authorities for refund of the above said recovered amount, on 19.12.2018. Since the said representation was not considered, the petitioner has filed W.P(MD)N0.9404 of 2021. This Court, by an order dated 12.05.2021, has directed the authorities to consider the representation of the writ petitioner. In compliance of the said order of this Court, G.O(3D) No.144, Agriculture -Ulavar Nala (Ve.Ni.7) Department, dated 03.06.2022 has been passed wherein the request of the petitioner for refund of the recovered amount has been rejected. All these three orders are put to challenge in the present writ petition.

5. According to the learned counsel appearing for the writ petitioner, the orders impugned in the writ petition have been passed without considering the explanation offered by the writ petitioner. The charges as against the writ petitioner have not been proved and therefore, the authorities were not right in imposing punishment of increment cut for a period of two years, that too with cumulative effect. He further contended that the authorities could not have invoked Tamil Nadu Pension Rules and imposed cut in pension of Rs.200/- per month for a period of one year. The learned



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counsel appearing for the petitioner herein had further contended that this Court has granted liberty to the authorities to retain the recovered amount only during the pendency of the remittal proceedings. However, the authorities have mis-understood the said order and they are attempting to retain the said amount. He further contended that in charge memo under Rule 17(b), there was no specific charge with regard to the recovery of the amount. Without any charges as against the writ petitioner, order of recovery and confirmation of the same are not legally sustainable.

6. Per contra, the learned Additional Government Pleader appearing for the respondents herein relying upon the counter extensively had contended that the petitioner was granted reasonable opportunity, but ultimately he was found guilty and therefore, such a punishment has been imposed and it is not dis-proportionate to the proved charges. He further contended that the Government has incurred huge loss due to the delinquency of the writ petitioner and therefore, the order of recovery is also sustainable in the eye of law. He further contended that in view of the fact that the petitioner has already attained superannuation, the Department was constrained to issue orders invoking Tamil Nadu Pension Rules and therefore, such a Government



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order may also be sustainable. The learned Additional Government Pleader also relied upon a consent Letter given by the writ petitioner on 04.08.2010, wherein the petitioner has given his consent for recovery of the amount of Rs.2,92,875/- and he has also not raised any objection for the recovery of a sum of Rs.1,29,964/- from the salary. In such circumstances, the petitioner cannot now challenge the Government Order wherein, the recovery orders have been confirmed.

7. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. A perusal of impugned G.O.(3D).No.261, Agriculture Ulavar Nala (Ve.Ni.7) Department, dated 17.12.2014, reveals that as against the petitioner four counts of charges have been levied. After enquiry, the petitioner has been found to be guilty of all the four counts of charges. It is further found that the Government has incurred loss due to the delinquency on the part of the writ petitioner. In such circumstances, this Court is of the considered opinion that the imposition of punishment of postponement of increment for a period of two years with cumulative effect cannot found to be dis-proportionate to the



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proved charges, warranting any interference from this Court. Therefore, challenge made to the Government Order, which was issued by the first respondent in G.O.(3D).No.261, Agriculture Ulavar Nala (Ve.Ni.7) Department, dated 17.12.2014, has no merits and the same is liable to be dismissed.

9. As far as the punishment imposed upon the writ petitioner invoking Pension Rules are concerned, it could be seen from the impugned order that the petitioner has been imposed with a punishment of a cut in pension at the rate of Rs.200/- per month for a period of one year. In view of proving the delinquency, this Court does not find any unreasonableness in the said Government Order and therefore, the said order is also confirmed.

10. The petitioner has challenged G.O.(D) No.144, Agriculture-Ulavar Nala (Ve.Ni.7) Department, dated 03.06.2022, wherein, they have refused to refund the recovered amount of Rs.4,22,839/-. A perusal of the charge memo reveals that no specific charges have been levied as against the petitioner with regard to causing loss to the tune of Rs.4,22,839/-. This amount was recovered from the writ petitioner even prior to the order passed in W.P(MD)



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No.5004 of 2008, dated 03.10.2012. The attempt made on the part of the learned Additional Government Pleader in relying upon consent letter dated 04.08.2010 cannot be a legally impediment for considering the prayer of the writ petitioner. In W.P(MD) No.5004 of 2008 this Court has only granted liberty to retain the said amount till the matter is finally disposed of after being remanded by this Court.

11. In such circumstances, the authorities ought to have reviewed the order of recovery, in the light of the fact that there is no specific charge as against the writ petitioner for recovering the above said amount. The authorities cannot rely upon the order permitting the authorities to retain the amount pending consideration of matter by the authorities. Therefore, G.O. (D) No.144, Agriculture-Ulavar Nala (Ve.Ni.7) Department dated 03.06.2022 is hereby quashed and the respondents are directed to refund the sum of Rs. 4,22,839/-.

12. In view of the above said deliberations, this Writ Petition stands partly allowed quashing G.O.(D) No.144, Agriculture-Ulavar Nala (Ve.Ni.7) Department, dated 03.06.2022 with a direction to the authorities to refund the



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amount of Rs.4,22,839/-. In other aspects, the writ petition is dismissed.

There shall be no order as to costs. Consequently, connected Miscellaneous
Petition stands closed.

09.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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2. The Director of Agriculture,
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R.VIJAYAKUMAR,J.

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