



W.P.(MD).No.10328 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.10328 of 2021

K.Natarajan

....Petitioner

Vs

1.The Principal Secretary to Government,
Animal Husbandry, Dairying and Fisheries (FS2)
Department,
Secretariat, Chennai-600 009.

2.The Director of Fisheries,
Administrative Office Buildings,
DMS Compound, Chennai-600 006.

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent i.e., the Principal Secretary to Government, Animal Husbandry, Dairying and Fisheries (FS2) Department, Chennai relating to G.O.(D) No. 151 Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 15.04.2021 and quash the same and consequently direct the Government to sanction regular pension and other retirement benefits since the petitioner was allowed to retire with effect from 31.07.2012, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam



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ended in the year 2012. The Enquiry Officer concluded his report that out of 5 charges, charge nos.2,4 and 7 had been proved and charge nos. 1 and 3 had not been proved and thereafter, forwarded the same to the Government. On receipt of the same, the Government on obtaining fresh representations, dated 20.04.2012 & 09.01.2013, passed final orders in G.O(D)No.211, Animal Husbandry, Dairying and Fisheries Department, dated 09.07.2014 inflicting a punishment of pension cut at the rate of Rs.50/- per month for a period of one year. During the pendency of the said disciplinary proceeding, the petitioner was allowed to retire from service with effect from 31.07.2012. Challenging the said order, the petitioner filed W.P(MD)No.17172 of 2014 before this Court and this Court was pleased to quash G.O(D)No.211, Animal Husbandry, Dairying and Fisheries Department, dated 09.07.2014, giving liberty to the respondents to pass appropriate orders after considering the petitioner's further representations, dated 20.04.2012 & 09.01.2013 in accordance with law and to pass a reasoned order within a period of 3 months from the date of receipt of copy of this order. Accordingly, the respondents further considered the petitioner's representations, dated 20.04.2012 & 09.01.2013 along with 18 other documents and passed G.O.(D)No. 151 Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 15.04.2021 confirming the earlier punishment inflicted on the petitioner vide G.O(D)No.211, Animal Husbandry, Dairying and Fisheries Department, dated



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09.07.2014. Challenging the same on the ground that a non-speaking order without assigning any reason has been passed, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that when this Court in WP(MD)No. 17172 of 2014 has categorically directed the respondents to consider the petitioner's further representations, dated 20.04.2012 & 09.01.2013 and thereafter, pass a reasoned order, the respondents have proceeded recklessly without application of mind and has once again passed the impugned order without properly considering his further representations and without giving any reason for confirming the earlier punishment inflicted on the petitioner vide G.O(D)No.211, dated 09.07.2014 and on that ground, the impugned order need to be interfered and the Government should be directed to sanction regular pension and other retirement benefits to the petitioner and pressed for allowing the writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents has filed a counter affidavit on behalf of the 1st respondent and vehemently submitted that the contentions put forth by the learned counsel for the petitioner that the impugned order is a non-speaking order, is unfair and the Government fairly complying with the order of this Court in



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W.P(MD)No. 17172 of 2014, dated 12.11.2019 has fairly considered the representations made by the petitioner and has appropriately passed the order, specifically mentioning that by means of the further representations, the petitioner did not bring any new or fresh grounds which would facilitate the Government to drop the charges initiated against him and hence, the Government was left with no other option rather confirming the minor penalty of pension cut of Rs.50/- per month for a period of 1 year as per proviso 2 Rule 9 of the Tamil Nadu Pension Rules, 1978. The said punishment is not shockingly disproportionate in view of the fact that of the total 5 number of charges as against the petitioner, charges no.2, 4 and 5 have been proved. In view of the fact that the punishment inflicted is a minor punishment, he pressed for dismissal of the writ petition.

5. Heard the rival contentions on either side and perused the materials available on record.

6. It is needless to state that this is a second round of litigation before this Court on the same issue. This Court has earlier considered the facts, circumstances, the relevant rules and regulations pertaining to the *lis* in W.P(MD)No. 17172 of 2014 and has passed elaborate orders on 12.11.2019.

This Court has fairly recorded in the said order from the report of the



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Commissioner of Disciplinary Proceedings, it can be understood that several witnesses were examined and the petitioner was given full opportunity to cross-examine the witnesses. That apart, even at the time of conducting the disciplinary proceedings, the explanation offered by the petitioner was fully considered and the findings were exclusively on the materials produced and the same were considered by the Commissioner of Disciplinary Proceedings. Even at the time of second show cause notice, further objections were submitted by the petitioner with a request to reject the findings of the tribunal for disciplinary proceedings. However, this Court proceeded to observe that the Government did not pass a reasoned order on the further objections made by the petitioner vide representations, dated 20.04.2012 and 09.01.2013 and directed the Government to pass a reasoned order in accordance with law. A careful perusal of the impugned G.O(D)No.151, Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 15.04.2021 would reveal that the Government had referred as many as 18 documents including the representations of the petitioner, dated 20.04.2012 and 24.03.2013 and the same is extracted as follows:

"1. Government letter No.3900/FS2/2008-2, Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 30.04.2008.

2. Proceedings of the Commissioner for Disciplinary Proceedings,



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Madurai in TDPNo. 06/2008, dated 20. 08.2009.

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3.Thiru.K.Natarajan, Inspector of Fisheries (Retired) Defence Statement, dated 07. 03.2011.

4. Findings of the Commissioner for Disciplinary Proceedings, Madurai in TDP.No.06/2008, dated 01. 06.2011.

5.Government Letter No. 18100/FS2/2010-11, Animal Husbandry, Dairying and Fisheries (FSZ) Department, dated 20.03.2012.

6. Thiru. K.Natarajan, Inspector of Fisheries (Retired) further representation, dated 20.04.2012.

7. The Director of Fisheries proceeding Rc.No.21989/M 1/2012, dated 20. 07.2012.

8. Government letter No, 181 00/FS2/2010-17. Animal Husbandrt, Dairying and Fisheries (FS2) Department, dated 15. 11.2012.

9. From Thiru. K. Natarajan, Inspector of Fisheries (Retired), letter dated 09.01.2013.

10. From Thiru. K.Natarajan, Inspector of Fisheries (Retired). letter dated 24. 03.2013.

11. Government letter No. 18100/FS2/2010-21, Animal Husbandry Dairying and Fisheries (FS2) Department, dated 02.05.2013.

12.From the Secretary, Tamil Nadu Public Service Commission letter No.4837/DCD-El/2013-1, dated 28/03/2014.

13. G.O.(D) No.211, Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 09.07.2014.



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14. From Madurai Bench of Madras High Court order dated 12.11.2019.

15. Government letter No. 19747/Fs2/2014-25, Animal Husbandry, Dairying and Fisheries (Fs2) Department, dated 10.07.2020.

16. From Thiru. K. Natarajan, Inspector of Fisheries (Retired). letter dated 24.07.2020.

17. Government letter No. 19747/Fs2/20 14, Animal Husbandry, Dairying and Fisheries (Fs2) Department, dated 25.08.2020.

18. From the Deputy Secretary, Tamil Nadu Public Service Commission letter No.5127/DCD-A1/2020-1, dated 18.01.2021. "

7. In the impugned order, it has been held that charge nos.2, 4 and 5 have been proved and the said charges are extracted as follows:

"Charge No.2

While you (Accused Officer-1) were working as Inspector of Fisheries, at Kudaganaru Dam, Alagapuri Village, Dindigul District, you had not written the Field register for the receipt of fishes caught by the fisherman and had written a rough note book for the receipt and sale of fishes caught on 12.09.2006 at Kudaganaru Dam and kept Rs.3575/- in your handbag, which showed an excess amount of Rs. 270/- as against the actual sale amount written in the rough note book, besides you had not remitted the sale amount of Rs.6081/- to the Government Accounts for the period from 01.09.2006 and 09.09. 2006.



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Charge No.4

While you (Accused Officer -) were working as Inspector of Fisheries, at Kudaganaru Dam, Alagapuri Village, Dindigul District, you had manipulated the records and misappropriated the Government funds without writing the actual daily sale amount in the cash book and thereby you had misappropriated the Government fund, by showing the sale amount ranging between Rs. 800/- and Rs.900/- daily instead of actual sale amount.

Charge No.5

While you (Accused Officer - 1) were working as Inspector of Fisheries, at Kudaganaru Dam, Alagapuri Village, Dindigul District, you had not distributed the share of fishes, meant for the fishermen on 12. 09.2006, who were the fisheries members of the Vedasandur Taluk Cooperative Society and who only caught the fishes on 12.09. 2006 and thereby violated the instruction of the Deputy Director of Fisheries, Madurai."

8. Having dealt with all the five charges separately, the 1st respondent has taken into consideration the further representation of the delinquent officer and the findings of the tribunal for disciplinary proceedings along with the connected records and thereafter, concluded the charges 2, 4 and 5 as proved and the operative portion of the said order is extracted as follows:



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"10) In the letter 17th read above, Tamil Nadu Public Service Commission has been consulted on the proposed punishment as per Regulation 18(i) (c) of Tamil Nadu Public Service Commission Regulation 1954. In the letter 18th read above, the Tamil Nadu Public Service Commission has offered its views as follows:-

"The Commission is of the opinion to endorse and reiterate the Commission's earlier views which were sent to the Government on 28.03.2014. It is advisable to the Government to uphold its earlier punishment of pension cut at the rate of Rs.50/- (Rupees Fifty only) per month for a period of one year which has been imposed on the delinquent officer. The Commission advises the Government to set aside the proposed provisional decision of imposing the penalty of pension cut at the rate of Rs. 50/- (Fifty Rupees only) per month on permanent basis as it is considered as unfair and not conducive to impose on him. The Commission is of the opinion to proceed with the punishment of 'pension cut at the rate of Rs. 50/- per month for a period of one year" on the delinquent officer and advise accordingly.

11) The Government after detailed examination of the case with connected records further representations of the delinquent officer along with the views of Tamil Nadu Public Service Commission. It is observed that they do not throw any fresh light on the basic charges of temporary misappropriation of funds and also no fresh grounds have been addressed to drop the charges initiated against him and he is still considered as guilty of the charges. Therefore the Government have decided to impose the punishment of W.P(MD). No.10328 of 2021 pension cut at the rate of Rs. 50/-



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(Rupees Fifty only) per month for a period of one year for the proven charges on the delinquent officer Thiru.K.Natarajan, Inspector of Fisheries (Retired) and issue orders accordingly.

12) The orders issued in the Government Order 13" read above is hereby cancelled."

9. The said order came to be issued by cancelling G.O(D)No.211, Animal Husbandry, Dairying and Fisheries (FS2) Department, dated 09.07.2014. The learned counsel for the petitioner vehemently submitted that the order of this Court in W.P(MD)No. 17172 of 2014 has not been followed by the 1st respondent in letter and spirit and without passing a reasoned order by carefully dealing with each and every grounds of objection raised by the petitioner in his further objections, dated 20.04.2012 and 09.01.2023, a cryptic order has been passed. The 1st respondent ought not to have concluded simply by observing that the petitioner's further representations do not throw any fresh light on the basic charges of misappropriation of funds and also no further grounds have been addressed to drop the charges initiated against him and that he is still considered as guilty of charges. However, a careful perusal of the entire order would reveal that the 1st respondent has certainly taken into account the original representation of the petitioner, dated 07.03.2011 that is the defence statement of the petitioner before the



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disciplinary authority. Thereafter, the 1st respondent considering the findings of the Commissioner for Disciplinary Proceedings, dated 01.06.2011 along with the fresh representation of the petitioner, dated 20.04.2012 and 09.01.2013, had arrived at a conclusion that no fresh grounds have been addressed to drop the charges initiated against the petitioner. That apart, it is needless to state that already this Court has fairly recorded that an elaborate enquiry has been conducted by the Commissioner for Disciplinary Proceedings, in which the petitioner was given with fair opportunity to cross-examine all the witnesses and also to submit further representation and the Government had fairly gone through the entire file meticulously and has come to a conclusion that no further grounds have been addressed to drop the charges initiated against him. In view of the fact that the quantum of punishment inflicted on the petitioner is not disproportionate, this Court is not inclined to interfere with the impugned order.

10. Hence, this Writ Petition stands dismissed. No costs.

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Internet : Yes

Index : Yes/No

NCC : Yes/No

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To

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Animal Husbandry, Dairying and Fisheries (FS2)
Department,
Secretariat, Chennai-600 009.
2. The Director of Fisheries,
Administrative Office Buildings,
DMS Compound, Chennai-600 006.



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L.VICTORIA GOWRI, J.

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