



W.P.(MD).No.13471 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13471 of 2024

K.Sellamuthu

... Petitioner

Vs

1. The Agriculture Production Commissioner
and Secretary to the Government,
St.George Fort, Chennai.

2. The Chief Engineer,
Agricultural Engineering Department,
487, Anna Salai, Nandanam,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings vide G.O. (3D) No. 02 Agriculture and farmers welfare (Ve.Ni.6) department, dated 10.01.2024 and confirming the punishment imposed by the 2nd respondent in his proceedings Se.Mu.No.ONa3/21676/2018, dated 21.01.2020 and quash the same as illegal.

For Petitioner : Mr. V.P.Rajan

For Respondents : Mr.M.Ramesh
Government Advocate



WEB COPY



W.P.(MD).No.13471 of 2024

ORDER

Heard Mr.V.P.Rajan, learned counsel for the petitioner and Mr.M.Ramesh, learned Government Advocate for the respondents.

2.This Writ Petition has been filed challenging the impugned order passed by the 1st respondent in his proceedings vide G.O.(3D) No. 02 Agriculture and Farmers Welfare (VeNi.6) department, dated 10.01.2024 and confirming the punishment imposed by the 2nd respondent in his proceedings Se.Mu.No.ONa3/21676/2018, dated 21.01.2020.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner is the Assistant Engineer in the respondent Department. The petitioner has been given with certain charges for having caused loss to the Government on 18.12.2018, as per the allegations certain deficiencies found in the construction of 17 check-dams within the jurisdiction of Madurai District. It has been alleged that in view of the above deficiencies, the petitioner has caused loss equivalent to a sum of Rs.11,40,042/-.



W.P.(MD).No.13471 of 2024

WEB COPY

5. The disciplinary proceedings has been initiated against the petitioner and in the enquiry, charges were proved. Thereby, the petitioner was imposed with the punishment of stoppage of increment for a period of 3 years with cumulative effect, along with the order of recovery of the loss caused by him from his monthly salary in instalments. The petitioner has challenged the above punishment by way of preferring an appeal and the appeal was also dismissed by confirming the order of punishment imposed by the second respondent.

6. The learned counsel for the petitioner submitted that recovery of the loss so ordered has already been recovered in 46 instalments and the petitioner at the relevant point of time holding an additional charge for Madurai District and the work pressure tackled by him, during the relevant point of time was not considered by both the competent authority/second respondent and the appellant authority/first respondent while imposing the punishment.

7. The learned Government Advocate submitted that holding an additional charge will not absolve from the liability of overseeing the projects being executed in a proper manner.



W.P.(MD).No.13471 of 2024

WEB COPY

8. In fact, the petitioner did not challenge the charges proved against him. The only request now made on behalf of the petitioner is that the punishment is disproportionate in view of the fact that he was holding additional charge at the relevant point of time and that the alleged loss to the revenue has also been recovered from him.

9. On perusal of the order of the appellant authority, it is seen that the appellant authority did not consider the above circumstances now pleaded by the petitioner. The petitioner, who was an Assistant Engineer has to supervise the public construction and that too, construction like check-dams and if did not exercise proper supervision, that would cause public damages.

10. As far as the finding of guilt against the petitioner, no leniency can be shown. Since the petitioner was holding the additional charge, which could have been possible that he was suffering with workload, on that ground only, I feel that little consideration can be shown in reducing the punishment.



W.P.(MD).No.13471 of 2024

WEB COPY

11. In view of the same, this Writ Petition is partly allowed in the following terms:

- *The impugned proceedings of the 1st respondent in G.O.(3D) No. 02 Agriculture and Farmers Welfare (VeNi.6) department, dated 10.01.2024, by confirming the punishment imposed by the 2nd respondent in Se.Mu.No.ONa3/21676/2018, dated 21.01.2020 are set aside.*
- *The punishment imposed by the respondents to the effect of stoppage of increment for a period of three years with cumulative effect is only modified to that of stoppage of increment for a period of three years. without cumulative effect.*
- No costs.

24.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



W.P.(MD).No.13471 of 2024

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WEB COPY



W.P.(MD).No.13471 of 2024

R.N.MANJULA, J.

PNM

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