



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

**DATED: 18-07-2025**

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**WP Nos. 17462 & 17463 of 2012**

S.Parthiban  
S.K.Srinivasan,  
No.18 State Bank Colony,  
II Street, Udumalpet 642 126,  
Coimbatore District.

Petitioner(s) in both W.P's

Vs

1. The Government of Tamil Nadu,  
Rep. by its Principal Secretary and  
Commissioner Of Agriculture  
(Production),  
Secretariat, Chennai 600 009.

2.The Commissioner of  
Horticulture,  
Horticulture Department,  
Chepauk, Chennai 600 005.

3.The Deputy Director of  
Horticulture, Vellore 2

Respondent(s) in



W.P.No.17462 of 2012

Vs

1. The Government of Tamil Nadu  
Represented by its Principal Secretary  
and Commissioner of Agriculture  
(Production),  
Secretariat, Chennai 600 009.

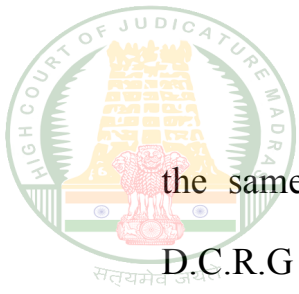
2. The Commissioner of  
Agriculture,  
Chepauk, Chennai 5.

3. The Commissioner of  
Horticulture,  
Horticulture Department,  
Chepauk, Chennai 600 005.

4. The Deputy Director of  
Horticulture, Vellore 2

Respondent(s) in  
W.P.No.17463 of 2012

**PRAYER in W.P.No. 17462 of 2012:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned G.O.(3D) No.165 dt.03.11.2009 issued by the first respondent and consequential G.O.(3D) No. 210 (Agri. Admn 7) dated 29.09.2011 issued by the first respondent and quash



the same and consequently direct the respondents to release the deducted D.C.R.G amount and pension amount to the petitioner that has been deducted by the respondents, pursuant to the impugned orders, within a time frame that may be fixed by this Court.

(Prayer amended vide order dated 04.06.2025 made in WMP.33462/2023 in WP.17462/2012).

**PRAYER in W.P.No.17463 of 2012:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Government Letter No.5044/Agri. Admn 7/2010-19, dt 30.9.2011 issued by the 1st respondent and quash the same and consequently direct the respondents to release the balance D.C.R.G amount of Rs.1,02,100/- that has been with held pursuant to the impugned order, within a time frame that may be fixed by this Court.

**Appearance of counsel in both W.Ps**

For Petitioner : Mr.V.Vijay Shankar  
for Mr.P.Navaneetha Krishnan  
For Respondent(s): Mr.Yogesh Kannadasan  
Special Government Pleader



## **COMMON ORDER**

WEB COPY

The issue that arise for consideration in both these writ petitions are one and the same and as such they are taken up for consideration together and are being disposed of by this common order.

The brief facts that are relevant for disposal of these writ petitions are as under:

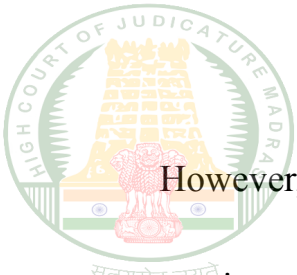
2. The petitioner, while working as Assistant Director of Agriculture, was subjected to disciplinary proceedings, by issuing a charge memo dated 13.09.2004, containing three main charges. The first charge is with regard to suppression of the conviction and sentence suffered by him for a period of three months by virtue of the order passed by the Judicial Magistrate, Udumalpet. The second charge is with regard to imprisonment undergone by him in Covai Central Jail from 03.09.2001 to 14.09.2001. The respondents after having conducted an enquiry into the matter, passed an order dated 26.03.2008, imposing the punishment of removal from service through G.O.Ms(3D) No.83, Department of Agriculture, dated 26.03.2008. Aggrieved by the said order dated



WEB COPY

26.03.2008, the petitioner filed a revision petition before the Government. The said revision petition was entertained, and the Government modified the punishment from “Dismissal” to “Compulsory Retirement” by order issued in G.O.Ms(3D) No.165 dated 03.11.2009. Consequently, the Government issued yet another order in G.O.(3D) No.210, dated 29.09.2011 under Rule 39 of Tamil Nadu Pension Rules, reducing the pension payable to the petitioner by 1/3rd and also deducting 1/3rd of the Death Cum Retirement Gratuity (DCRG) amount payable to the petitioner. It is aggrieved by the said orders dated 03.11.2009 and 29.09.2011, the petitioner has filed writ petition in W.P.No.17462 of 2012. Thereafter the Government issued yet another order bearing letter No.5044/Agri.Admn7/2010-19, dated 30.09.2011, withholding an amount of Rs.1,02,100/- from DCRG amount payable to the petitioner. It is aggrieved by this proceedings dated 30.09.2011, the petitioner has filed W.P.No.17463 of 2012.

3. The learned counsel for the petitioner fairly conceded that the petitioner cannot contest the charges that are levelled against the petitioner.



WEB COPY

However, submitted that the major punishment of compulsory retirement from service with due obligation of cutting of 1/3<sup>rd</sup> amount from DCRG is shockingly disproportionate to the charges levelled against the petitioner.

4. On the other hand, the learned Special Government Pleader appearing for the respondents submitted that the petitioner admitted about suppression of information about his arrest and sentence undergone by him, consequent upon the conviction and therefore, he is rightly proceeded by the respondents and the original punishment of dismissal from service imposed against the petitioner was already reduced to that of compulsory retirement by the Government. The said punishment is commensurate with the gravity of charges levelled against the petitioner. The petitioner, being an Officer holding the post of Assistant Director, he is required to intimate the higher officials about his involvement of criminal case and sentence suffered by him. Thus, he contented that the punishment of compulsory retirement is proportionate to the charges levelled against the petitioner herein.



5. This Court has carefully considered the submissions made on either side and also perused the entire materials on record.

6. The conviction that was suffered by the petitioner resulting in sentencing him and the imprisonment suffered by the petitioner, was in respect of an offence under Section 138 of the Negotiable Instruments Act (NI Act). The said conviction was no way concerned with the employment of the petitioner in any manner. The entire transaction resulting in convicting the petitioner is under the provisions of NI Act, in respect of the private transaction between the petitioner and the private parties. The said conviction was imposed against the petitioner by the Judicial Magistrate, Udumalpet and confirmed by the Principal Sessions Judge, Coimbatore. The said conviction was challenged by the petitioner in Crl.R.C.No.1156 of 2001 and, this Court, by an order dated 01.04.2003, disposed of the said Crl.R.C case, setting aside the order of Principal Session Judge, Coimbatore, in respect of the sentence alone and the petitioner was released by invoking Section 3 of the Probation of Offenders Act, 1958 (in short, 'the Act'), admonishing the petitioner that he should not commit



any such offence in future. Thus, it is evident that the sentence that was suffered by the petitioner is no more subsisting, though the conviction was

WEB COPY

allowed to stand. Section 12 of the Act, 1958 reads as under:

“12. Removal of disqualification attaching to conviction.- Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law;

Provided that nothing in this section shall apply to a person who, after his release under section 4, is subsequently sentenced for the original offence.”

7. In the light of the said provision, the conviction suffered by the petitioner shall not have any effect on the employment of the petitioner. In the light of the above, this Court is inclined to examine the matter on merits.

8. The charges that were levelled against the petitioner are not on the ground that the petitioner suffered conviction, but only on the ground of suppression and involvement of the petitioner in a criminal case and also basing on the sentence that was undergone by the petitioner from 03.09.2001 to 14.09.2001.



WEB COPY

9. The third charge levelled against the petitioner is with regard to an attempt made by the petitioner to sell the house that was constructed by the Tamil Nadu Housing Board, Udumalpet, contrary to the rules and regulations of obtaining the advance for constructing the house and in violation of the stipulated conditions agreed to by him.

10. The fourth charge levelled against the petitioner is only the consequence of all the charges 1 to 3.

11. The entire transactions which resulted in convicting the petitioner and imposing sentence is the transaction, which is outside the scope of his employment. The proceedings under Section 138 of NI Act are not the criminal proceedings in strict sense, but they are quasi criminal in nature. The said conviction is the result of some financial transaction between the petitioner and the third parties. It is nothing to do with the employment of the petitioner. The said conviction was though allowed to become final, in the light of the



WEB COPY

provisions of Section 12 of the Act, the said conviction shall have no effect on the employment of the petitioner as no disqualification incurred by the petitioner because of such conviction. The said sentence undergone by the petitioner is no more subsisting. Therefore, the imprisonment of the petitioner from 03.09.2001 to 14.09.2001 has no relevancy and under those circumstances, the only charge that is left is suppression of certain facts to his higher officers and third charge is only with regard to an attempt made by the petitioner to sell the house, contrary to certain rules and regulations. From the perusal of the charges that are levelled against the petitioner, it is evident that they are not of serious nature.

12. In the light of the above, this Court is of the considered view that the punishment of compulsory retirement with deduction of 1/3<sup>rd</sup> amount from pension and DCRG is shockingly disproportionate to the nature of charges levelled and established against the petitioner. The respondent Government while exercising the power failed to take into consideration, the trivial nature of the charges that were levelled against the petitioner and invoked Rule 39 of the



Tamil Nadu Pension Rules, thereby reducing the amount of 1/3<sup>rd</sup> of pension payable to the petitioner and 1/3<sup>rd</sup> of DCRG amount.

WEB COPY

13. In the light of the above, this Court is of the considered view that at the same time, the petitioner also cannot be allowed to go scot free having committed mis-conduct in suppression of crucial information from his employer. In the circumstances, the punishment of compulsory retirement imposed on the petitioner through G.O.Ms(3D) No.165 dated 03.11.2009 read with G.O.3(D) No.210 dated 29.09.2011 and the consequential proceedings issued by the first respondent dated 30.09.2011, which are impugned in the present writ petitions are hereby quashed to the extent of imposing punishment of compulsory retirement and the punishment of compulsory retirement shall stand substituted with the punishment of withholding increment for 1 year with cumulative effect, w.e.f. 26.03.2008.



14. Accordingly, the writ petitions are disposed of, directing the respondents to pass consequential orders and release all the terminal benefits that would be payable to the petitioner in terms of this order passed by duly giving effect to the punishment of stoppage of increment for one year with cumulative effect and release the amounts and revise the pension of the petitioner accordingly, as expeditiously as possible, at any rate, within a period of three (3) months from the date of receipt of a copy of this order. No costs.

**18-07-2025**

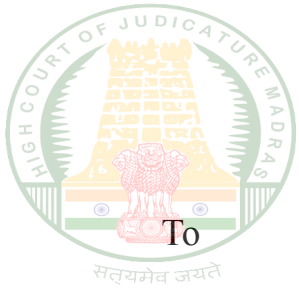
jd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



WEB COPY

1. The Government of Tamil Nadu,  
Rep. by its Principal Secretary and Commissioner Of Agriculture (Production),  
Secretariat, Chennai 600 009.
2. The Commissioner of  
Horticulture,  
Horticulture Department,  
Chepauk, Chennai 600 005.
3. The Deputy Director of  
Horticulture, Vellore 2.
- 4 The Commissioner of  
Agriculture,  
Chepauk, Chennai 5.



WEB COPY

WP Nos. 17462 & 17463 of 2012



**MUMMINENI SUDHEER KUMAR J.**

jd

**WP Nos. 17462 & 17463  
of 2012**

**18-07-2025**