



WP No. 25317 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 04.04.2025	Pronounced on 25.04.2025
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CORAM

THE HONOURABLE MR JUSTICE RMT. TEEKAA RAMAN

WP No. 25317 of 2015 and M.P.No.1 of 2015

1. J.Ramesh,
S/o.M.Jayaseelan
49, Thottakara Street
Kaverpakkam Village & Post
Arakkonam Taluk
Vellore District 632 508

Petitioner(s)

Vs

1. State of Tamil Nadu,
Rep. by the Additional Secretary to Government,
Agriculture Dept., Secretariat, Chennai-9.

2.The Chief Engineer,
Agricultural Engineering Dept., Nandanam,
Chennai-35.

3.The Executive Engineer,
Agricultural Engineering, Thorapadi, Vellore.

Respondent(s)



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WEB PRAYER

Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the orders passed by him in G.O(3D).No.215 Agricultural (Ve.Ni5) Dept., dated 10.07.2015 and also on the file of the 2nd respondent in connection with the order passed by him in his Proc.No. O.No.4/9638/2011, dated 18.7.14 and quash the same and direct the respondents to promote the petitioner to the post of Superintendent for the panel year commencing from 15.3.12 with effect from the date of promotion given to his junior with all monetary and service benefits

For Petitioner(s): Mr.R.Singaravelan,
Senior Counsel
For Ms.M.Srividhya

For Respondent(s): Mr.C.Veluchamy,
Additional Government Pleader

ORDER

This Writ Petition has been filed by the petitioner to call for the records on the file of the first respondent in connection with the orders passed by him in G.O(3D).No.215 Agricultural (Ve.Ni5) Dept., dated 10.07.2015 and also on the file of the 2nd respondent in connection with the order passed by him in his



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Proc.No. O.No.4/9638/2011, dated 18.7.14 and quash the same and direct the respondents to promote the petitioner to the post of Superintendent for the panel year commencing from 15.3.12 with effect from the date of promotion given to his junior with all monetary and service benefits.

2.The petitioner has filed this Petition, challenging the order of punishment of stoppage of increment for a period of six months with cumulative effect and to promote the petitioner to the post of Superintendent for the panel year commencing from 15.03.2012.

3.The facts of the case leading to filing of this Writ Petition are as under:

The issue is related to the allegations leveled against the Petitioner by the competent authority under rule 17(b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules for the following charges:-

"Charge. 1 : Whereas, Thiru. J. Ramesh has used unparliamentary words against other staff viz., Thiru. G. Vajram, Junior Engineer (Agri. Engg.), Thiru. N. Rajasekaran, Junior Engineer (Agri. Engg.) and Tmt.S. Uma Rani, Assistant and baffles them to work in a dignified manner. He has also troubled the routine office works and thus acted bewildering and undignified manner.

Charge.2: Whereas, Thiru.J.Ramesh without following the procedures laid down and the instructions of the higher officials provided wrong information to the farmers voluntarily. He has



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also used unparliamentary words against the higher officials and thus derelicted from his official duties.

Charge.3: Whereas, Thiru. J. Ramesh, without following the instructions of G.O. Ms. No. 239, Personnel & Administrative Reforms Department, dated 5.10.1998 used abusive words against Tmt.S.Uma Rani, Assistant and thus abused her.”

3.1.The Assistant Executive Engineer (Agri. Engg.), Tiruvallur was appointed as Inquiry Officer by the Second Respondent vide proceedings DC.4/9638/2011, dated 21.10.2011. The Inquiry Officer has submitted his Enquiry Report to the Second Respondent vide letter dated 19.11.2012 for issuance of orders. The second Respondent after a thorough deliberation of facts and circumstances of the issue, vide proceedings no. DC.4/9638/2011, dated 18.7.2014 imposed a punishment of stoppage of increment for six months with cumulative effect as per the rules.

3.2.The Government after affording opportunity to the petitioner by way of personal hearing on 20.2.2015 and based on the views of the Tami Nadu Public Service Commission dated 16.6.2015 has finalised the appeal petition dated 10.8.2014 vide G.O. (3D) No. No. 215, Agriculture (AA5) Department, dated 10.7.2015 by rejecting the appeal of the petitioner.



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4. Heard the learned counsel for the petitioner and the learned senior counsel appearing on behalf of the petitioner and the learned Additional Government Pleader.

5. The orders of the Government in the appeal petition has been made after the views of the Commission and also in consultation with the advisory departments of the Government.

6. With regard to the second portion of the prayer to consider him for the next promotional post, based upon the counter affidavit the learned Government Advocate would contend that the panels for the crucial dates of 15.03.2012, 15.03.2013, and 15.03.2014 were finalized before the disciplinary proceedings against the petitioner was concluded. The disciplinary proceedings against the petitioner was finalized on 18.7.2014 with a punishment of stoppage of increment for six months with cumulative effect. Therefore, due to the pendency of disciplinary proceedings as on 15.3.2014, the petitioner's name was deferred in the above panels. The petitioner has not disputed this. The final orders in the disciplinary proceedings were issued on 18.07.2014, and if implemented from the following month, the six-month punishment would conclude in January 2015. Even though the petitioner requested that their name should be included



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in the panel as of 15.03.2015, this request is not in accordance with the rules.

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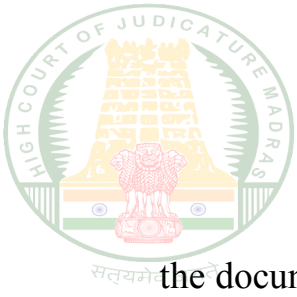
The rulings 6 of the rule 24 of the Tamil Nadu Government Servants' Fundamental Rule reads as follows:-

"..... If the penalty of stoppage of increment is imposed on him as a result of the charges against him, his next increment can be withheld as there is no objection to withholding it subsequent to the period of service to which the charges relate"

Subsequently, the Government in Letter No. 18667/S/2006-1, Personnel and Administrative Reforms (S) Department, dated 28.4.2006 have clarified the above with an illustration as follows:-

"... an order imposing any punishment including withholding of increment takes effect from the date on which the said order is communicated to Government Servant Concerned. This does not mean that the punishment will be over after expiry of the period reckoning from the date of receipt of the orders of punishment. The punishment will continue till the actual period of punishment is completed. Currency of punishment is therefore continued till the punishment is over."

7.The case of the petitioner as submitted by the learned senior Advocate is that the charges does not warrant 17(b) proceedings, which is in violation of Circular No.14353/Per.N/93-I, P & A.R. Department dated 11.09.1993. Due to the operation of the said order. the petitioner's promotion to the post of Superintendent which is due on 15.03.2012 has been deferred. Further, copy of



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the documents which were referred in the charge memo have not been produced to the petitioner. Since the enquiry was conducted by the Superintending Engineer, who is not the disciplinary authority, the duty is caused upon the disciplinary authority to give an independent finding before imposing punishment.

8.The learned senior counsel for the petitioner would also contend that the enquiry officer has not at all examined Mr.Ramalingam, Assistant Executive Engineer against whom the petitioner alleged to have been used abusive words and hence non examination of Mr.Ramalingam is fatal to the enquiry proceedings. In the enquiry report the third charge viz., abusive words against a lady officer was held to be not proved. In respect of the malpractices and misappropriation committed by the Assistant Executive Engineer, viz., M.Ramalingam and the higher officers, a news has been published in Kumudham reporter and Namadhu reporter and hence, they had grudge and they gave complaint against the petitioner and stopped the increment.

9.The learned senior counsel draw my attention to the explanation submitted by the complainant and contended that since the Appellant has questioned the illegal actions of the Assistant Executive Engineer, M.Ramalingam the higher officials who are hand in glove with the Assistant



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Executive Engineer, the Executive Engineer, Vellore II namely G.Mani, has issued charge memo dated 29.07.2010 to the Petitioner, stating that the Petitioner has behaved in the office contrary to the Office Discipline and he has acted against the Tamil Nadu Conduct Rules, 1973 and that the petitioner has also violated the provisions of G.O.Ms.No.293, dated 05.10.1998.

10.The crux of the charge is that the petitioner has scolded the Junior Engineer viz., G.Vajram and a complaint was given by one N.Rajasekaran, Junior Engineer. It is averred by the petitioner that since the petitioner herein has given a written complaint against this to the higher officials and also brought to the light the illegality and the offence committed by them to the knowledge of higher officials, the charge memo was issued on 28.07.2010. According to the petitioner, necessary copies were not furnished to him and the documents relied upon by the Management were not marked through the witness assumes significance. List of witnesses examined and list of documents marked were not at all mentioned in the enquiry report dated 19.11.2012.

11.Out of three charges as per the enquiry report I find that the third charge ie., petitioner misbehaved with a lady employee viz., S.Umarani has held to be not proved. Only the second charge viz., the petitioner has scolded



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Mr.G.Vajram and Mr.N.Rajasekaran has been held to be proved. In the enquiry report curiously, I find that the enquiry officer has stated that the petitioner has permitted the press people and media persons to publish the affairs of the agricultural engineering department, Wallajah Sub Division and the petitioner has not refuted the charges and hence the said charge has been held to be proved, whereas the said charge is not at all mentioned in the charge memo dated 29.07.2010, without the said charge, the Enquiry Officer has conducted the enquiry and held that the said charge is proved, which supports the case of the petitioner rather than the case of the official respondents.

12.From the counter affidavit, this Court finds that the petitioner has submitted an explanation to the showcause notice and it was received and the disciplinary authority has imposed the punishment of stoppage of increment for a period of six months with cumulative effect as per order dated 18.07.2014. At this juncture, my attention was drawn to the fact that, with regard to the same complainant, Mr.M.Ramalingam, Assistant Executive Engineer, and Mr.G.Mani, Executive Engineer, who were named as accused in Cr. No. 7 of 2012 pending before the Chief Judicial Magistrate, Vellore, disciplinary action has also been initiated against M.Ramalingam and all the Section Officers cited as witnesses in the charge memo for failing to provide electric motors to agriculturists under the subsidy scheme. Disciplinary proceedings are still pending against them,



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initiated by the Chief Engineer. These facts clearly demonstrate that the petitioner acted as a whistleblower, exposing corruption within the department. Therefore, I find that the charges against the petitioner appear vague, and the inquiry officer has not conducted the proceedings properly.

13. In view of the facts that the plea raised by the petitioner two higher officers in his office are indulging in malpractices of failure to provide electric motors to agriculturists under subsidy scheme and the very same persons Ramalingam and Mani are being prosecuted by the Vigilance department and they are close associates on the very same complaint for which the complaint was given by the Junior Engineer Rajasekaran, probablise the case of the petitioner that since he refused to join hands with the higher officials in making corruption for providing electric motors under subsidy scheme to the agriculturists, a complaint has been foisted by the department against him by the higher officials assumes significance. Hence, both charges as well as punishment imposed by the department against the petitioner are hereby set aside. Consequently, the petitioner has to be considered for the post of Superintendent for the panel commencing from 15.03.2012, with effect from the date of promotion given to his juniors with all the monetary and service benefits. The said exercise has to be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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14. With the above observation and direction, this Writ Petition is allowed.

No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Additional Secretary to Government,
State of Tamil Nadu,
Agriculture Dept., Secretariat, Chennai-9.

2. The Chief Engineer,
Agricultural Engineering Dept.,
Nandanam, Chennai-35.

3. The Executive Engineer,
Agricultural Engineering,
Thorapadi, Vellore.



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RMT.TEEKAA RAMAN J.

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Pre delivery order made in
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