



W.A.No.1075 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

WEB COPY

CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.1075 of 2023

Agricultural Production Commissioner and
The Principal Secretary to Government
Agriculture Department, Secretariat
Chennai – 600 009.

.. Appellant

Vs.

S.Esakkimuthu

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.07.2021 in W.P.No.31885 of 2018.

For the Appellant : Mr.E.Kathiravan
Special Government Pleader

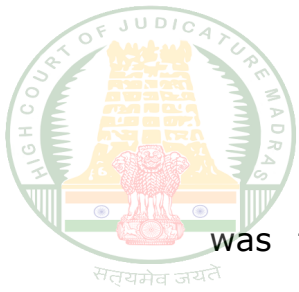
For the Respondent : Mr.R.Prem Narayan

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order of the Writ Court dated 22.07.2021 made in W.P.No.31885 of 2018.

2. The respondent *S.Esakkimuthy* was working as an Officer in the appellant Department. While so, Disciplinary Proceedings were initiated against him under Rule 17B of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. The main allegation



W.A.No.1075 of 2023

was that the delinquent was involved in corrupt practices by collecting money from his subordinates to facilitate their promotions and transfers. Therefore, he had not maintained the absolute integrity and devotion towards duty. That is how, charge memo was issued against the delinquent Officer, based on which, an Enquiry Officer was appointed, who conducted an enquiry.

3. During the enquiry, even though 32 prosecution witnesses were listed, only two were examined before the Enquiry Officer on behalf of the prosecution. However, both the prosecution witnesses turned hostile, which means, they have not deposed anything in favour of the prosecution nor against the delinquent Officer.

4. However, the Enquiry Officer seems to have taken the evidences said to have been recorded during a Vigilance Enquiry conducted by the Directorate of Vigilance and Anti Corruption Department [DVAC] Authorities and based on which, the charges framed against the delinquent Officer were said to be proved and accordingly, the Disciplinary Authority imposed the punishment of "compulsory retirement" by issuance of G.O.(3D)No.97, Agriculture (AA8) Department dated 30.07.2018, which was impugned before the Writ Court.



W.A.No.1075 of 2023

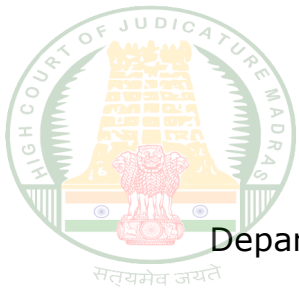
WEB COPY

5. The Writ Court, having gone through all these factual matrix, has found that during the Departmental Enquiry, none of the witnesses have deposed against the delinquent Officer. When that being so, the evidences said to have been recorded by the DVAC Authorities in a separate proceedings have been taken as evidences against the delinquent Officer and the charges were said to have been proved.

6. The learned Single Judge found that insofar as the evidences, said to have been recorded by the DVAC Authorities, are concerned, the opportunity of cross-examination has not been given to the delinquent Officer. Therefore, that amounts to the violation of principles of natural justice and also, it cannot be said as conducting a fair enquiry. The learned Single Judge, therefore, by citing a decision of the Hon'ble Supreme Court of India in the case of **Central Bank of India Ltd., vs. V. Prakash Chand Jain¹** and a decision of this Court in the case of **K.Ramalingam vs. The Superintendent of Police, Perambalur²**, has ultimately concluded that based on the evidences said to have been recorded during the DVAC Proceedings, the Enquiry Officer in the

1 AIR 1969 SC 983

2 2009 (7) MLJ 578



W.A.No.1075 of 2023

Departmental Enquiry could not have come to the conclusion that the charges framed against the Delinquent Officer to be proved and based on which, the punishment of "compulsory retirement" awarded should be set aside and accordingly, set aside G.O.(3D)No.97, Agriculture (AA8) Department dated 30.07.2018 by allowing the writ petition through the impugned order.

7. We do not find any error in the approach and the conclusion arrived by the learned Single Judge in the impugned order. The reason being that, insofar as the Departmental Enquiry is concerned, though the degree of proof is preponderance of probability, even for arriving at such a probable conclusion, the Departmental Enquiry must only rely upon the evidences adused before it. The Enquiry Officer cannot go for an extra Disciplinary Enquiry Proceedings, that too in a DVAC Proceedings.

8. When this was specifically asked by this Court, the learned Special Government Pleader would submit that the DVAC Enquiry has not been concluded. When that being so, the report or evidences recorded during an unconcluded Enquiry cannot be fully relied upon by the Enquiry Officer in the Departmental Enquiry and therefore, based on which, the punishment of "compulsory



W.A.No.1075 of 2023

retirement", awarded against the respondent delinquent, cannot be accepted.

9. Hence, the impugned order has to be sustained, as we do not find any reason to interfere with the same. Resultantly, this appeal fails and is liable to be dismissed. Accordingly, the present writ appeal stands dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.10912 of 2023 is closed.

(R.S.K., J.) (A.D.M.C., J)
25.03.2025

Neutral Citation:Yes/No

drm

To:

1. Agricultural Production Commissioner and
The Principal Secretary to Government
Agriculture Department, Secretariat
Chennai – 600 009.



WEB COPY



W.A.No.1075 of 2023

R. SURESH KUMAR, J.
AND
A.D.MARIA CLETE, J.

(drm)

W.A.No.1075 of 2023

25.03.2025