



W.A.(MD)No.1028 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1028 of 2023
and
C.M.P.(MD)No.7846 of 2023**

1.The Secretary to Government,
Agricultural Department,
Chennai - 600 009.

2.The Chief Engineer
(Agricultural Engineering),
Nandanam,
Chennai - 600 035.

3.The Assistant Executive Engineer
(Agricultural Engineering),
District Collector Office Campus,
Virudhunagar,
Virudhunagar District.

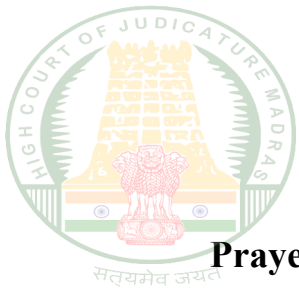
4.The Accountant General,
Teynampet, Chennai.

... Appellants

Vs.

S.P.Ramu

... Respondent



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Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.7396 of 2005 dated 14.12.2022 on the file of this Court.

For Appellants : Mr.N.Ramesh Arumugam,
Government Advocate.

For Respondent : Mr.S.P.Ramu,
Party-in-person.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The State is on appeal challenging the order dated 14.12.2022 made in W.P.(MD)No.7396 of 2005 filed by the respondent / S.P.Ramu.

2.S.P.Ramu joined the Agriculture Engineering Department as Junior Engineer in the year 1967. He retired in the year 2001 in the very same capacity. He could not secure any promotion on account of the pendency of the disciplinary proceeding which commenced in the year 1981. We had a look at the charges framed against the writ petitioner. The only allegation made against him is that he did not make the entry of measurements of certain pond sites properly. The matter had seen several



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rounds of litigation. That is why, the learned Single Judge while allowing the writ petition observed as follows:-

“10. The 1st ground that was raised by the petitioner is that the 3rd respondent being his immediate superior was appointed as prosecuting officer in the disciplinary proceedings. According to the petitioner, the 3rd respondent by sending another Junior Engineer has officially created forgery documents of bund measurement. Before doing the earth-work, pond clearance was done, the cost of clearance was Rs.1/- per square meter. The Executive Officer, Sivagangai, accepted this cost and cleared shrubs and earth work was also carried over subsequent to the execution of the work. The 3rd respondent directed the petitioner and compelled the petitioner to tamper the records and directed him to make increased payment to the contractors as Rs.5/- per square meter. Since the petitioner refused the same, the 3rd respondent decided to remove the petitioner and put some other officer in his place. Hence, the 3rd respondent suspended the petitioner and put another officer by name Vellaisamy. With the help of the said Vellaisamy, the 3rd respondent had tampered the records and the payment was increased to Rs.5/- per square meter. In order to carry his plan, the 3rd respondent placed the petitioner under suspension and issued charge memo. This action was noticed by TNPSC and the Commission has condemned those contractors, which would be evident from the recommendation of the Commission. The relevant portion of the same is extracted here under:



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“It may not be out of place to point out that for this tank work the rate for jungle clearance for which the agreement rate which was Rs.1.10/- sq.mtr. was subsequently increased 5.00-sq.mtr after completion of the work on the plea that the rate provided in the estimate was wrong. Normally such procedures are not accepted and when pointed out by the Accused officer in his reply to the charge sheet some not very convincing reply has been given. In fact, the pre measurement recorded by the Accused Officer for clearing light jungle is available in the measurement book whereas after doing earth work another junior engineer has recorded the specification as juliflora jungle reported to have been recorded as per local enquiry is highly irregular and is condemnable as it is against the basic principles of recording measurements.”

On perusing the views of the commission, wherein it has been categorically recorded in the pre-measurement that it is light jungle and the rate is Rs.1 per Sq. Meter, but after doing earth work, another Junior Officer has recorded it as juliflora jungle and increased the rate is highly irregular and condemnable which is against the basic principles of recording measurements. Hence the contention of the petitioner that since the petitioner denied to increase the cost of payment to the contractor, the 3rd respondent had appointed another Junior Engineer by name Vellaisamy, in order to tamper the records ought to be accepted. The respondents have not stated any reason in the counter affidavit for this contention. Since there was a clear allegation against the 3rd respondent, the petitioner is right in stating that the 3rd respondent should not have acted as a prosecuting officer in the



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disciplinary proceedings and thereby there is violation of principle of natural justice.

11.The next contention that was raised by the petitioner is that the Government has accepted the views of TNPSC Commission and has passed G.O. (D)No.132, Agriculture (AA.II) Department, dated 24.12.1991, that is why the Government has ordered for denova enquiry. Subsequently, a review petition was filed by the petitioner stating that having accepted the views of the TNPSC some other Junior Officer has entered the entry, the Government ought not to have directed for denova enquiry against the petitioner alone. The denova enquiry ought to be ordered against the 3rd respondent as well as the subsequent Junior Engineer namely Vellaisamy. Therefore, this Court is of the considered opinion that the disciplinary proceeding is discriminatory.

12.Strangely, in the counter affidavit, it is mentioned that due to excess of earth work, the measurement is double and triple the actual measurement. The respondents have quantified the amount as loss to the Government to the tune of Rs.14,551/-. Having quantified the said amount as loss, the respondents have not taken any steps or passed any order to recover the said amount. When the amount of loss is quantified, it ought to have been recovered from the delinquent officer who was responsible for the loss. This would indicate that the respondents are not genuine in taking disciplinary proceedings and there is element of vindictiveness.



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13.The next ground that was submitted by the petitioner is that the 3rd respondent has accepted that subsequently, the 3rd respondent has not carried out any bund measurement at all, for which the petitioner relies on the order passed by the 2nd respondent, dated 07.12.1984. The relevant portion of the letter is extracted here under:

“Charge: 1: When the Assistant Executive Engineer went over to the pond sites for check measurement on 15.7.81, he found the Junior Engineer's measured quantity of earth work to be far excessive and irrationally higher than the actual quantity of earth work which was made out roughly by measuring the bund itself.

Since the arrangements were made for taking bund measurement roughly and recording it in a sheet of paper and the Assistant Executive Engineer had not recorded any of percolation ponds, the Delinquent Officer was informed that the question of ending of copies of the said measurements to the Delinquent does not arise.”

When the respondents have categorically admitted that the 3rd respondent has not recorded any percolation pond measurement and it was informed to the delinquent officer that the bund measurement was roughly taken and recorded in a sheet of paper. Hence, there is no question on sending the copies of the said measurement to the delinquent which will clearly indicate that the respondents have carried out only a rough measurement and the base of the charge itself is based on the said measurement. Therefore, this Court is of the considered opinion that the



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respondents have not carried out the enquiry properly, but in order to victimize the petitioner the present disciplinary proceedings was initiated.

14.The petitioner is aged about 68 years and the petitioner had attained superannuation on 30.10.2001. Therefore, this Court is not inclined to remit the case back for any further enquiry or denova enquiry. Therefore, the impugned orders are set aside. The respondents are directed to regularize the suspension period as duty period. The petitioner is entitled to all increments, service benefits and monetary benefits. As far as promotion is concerned, since the promotion is not automatic and it is based on merit, ability and also based on availability of vacancy. If the petitioner's junior were granted promotion, then the petitioner is entitled to promotion. Hence the respondents shall consider the case of the petitioner and if promotion is granted to the petitioner's junior, notional promotion shall be granted to the petitioner. However, the petitioner is not entitled to the monetary benefits for the notional promotion, but the effect shall be granted in the pensionary benefits. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

15.With the above said directions, the writ petition is allowed. No costs."

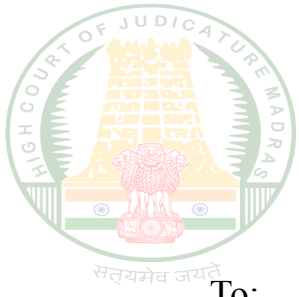


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3.The writ petitioner had been agitating the issue right from the inception. He cannot be accused of delay or laches. The cause of action arose 44 years ago. The writ petitioner retired in the year 2001 itself. The learned Single Judge had analysed the factual matrix in considerable detail and come to the conclusion that the writ petitioner was innocent. The writ petitioner is a senior citizen. The allegations made against him are not at all serious. Taking into account all these aspects, we decline to the interfere with the order of the learned Single Judge. This writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (K.R.S. J.,)
14.07.2025

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