

W.P(MD) No.18963 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.11.2024

Delivered on : 16.04.2025

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.18963 of 2016

and

W.M.P(MD)No.13687 of 2016

M.R.Janarthanan

... Petitioner

Vs

1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Animal Husbandry Dairying & Fisheries (FSII) Department,
Secretariat,
Chennai - 600 009.

2.The Registrar of Co-Operative Societies,
Kilpauk,
Chennai - 600 010.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to



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call for the records pertaining to the impugned order in G.O.(D) No.275 dated 05.09.2014 and consequential Impugned Order in G.O.No.178 dated 10.05.2016 of Animal Husbandry Dairying and Fisheries (FS2) Department on the file of the first respondent and quash the same as illegal and consequently to direct the second respondent to include the petitioner's name in promotion panel as on 01.05.2010 for Co-operative Sub Registrar and to restore all other attendant consequential benefits.

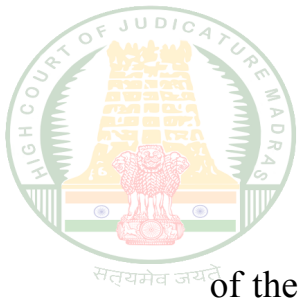
For Petitioner : Mr.G.Karthik

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

ORDER

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in G.O.(D) No.275 dated 05.09.2014 and consequential Impugned Order in G.O.No.178 dated 10.05.2016 of Animal Husbandry Dairying and Fisheries (FS2) Department on the file



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of the first respondent and quash the same as illegal and consequently to direct the second respondent to include the petitioner's name in promotion panel as on 01.05.2010 for Co-operative Sub Registrar and to restore all other attendant consequential benefits.

2. The case of the petitioner in brief are as follows:

(a) The petitioner was appointed as a Special Officer for Mankulam, fisheries, cooperative societies, took charge on 31.1.2003 and Mr. D. Samraj was his predecessor in office. A Charge Memo vide No. 20234/FS-2/06-5 dated 02.07.2007 was issued by the 1st respondent to the petitioner jointly with Mr. D. Samraj, for the alleged disbursement of relief fund under the national savings, cum relief scheme, to 42 ineligible beneficiaries against the prescribed norms in the year 2002-2003 causing loss of Rs.25,200/- to the Government Fund.

(b) During the process of enquiry, the petitioner was not allowing to cross examine certain witnesses, the enquiry conducted loses its credibility. This fact is being revealed in Point No.13 of the findings of the Enquiry Officer dated 25.06.2009. Further there was an inordinate



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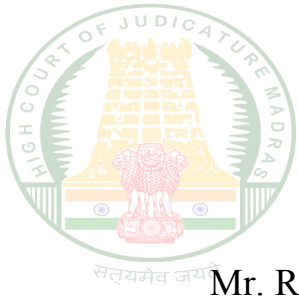
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delay in conducting the enquiry proceedings and the delay ipso facto renders the whole process of enquiry invalid.

(c) He further submitted that the alleged act of non-verification of disbursements made in the year 2002-2003, Charge-Memo was issued in 2007, enquiry was conducted in 2012 and the punishment through the impugned order was imposed on 10.05.2016. In short after 14 years of the alleged acts said to have been committed by the petitioner punishment has been imposed, which is against the settled decisions of catena of the Hon'ble Court judgements.

(d) The Charge-memo was issued against the petitioner along with D.Samraj, Inspector of Fisheries, alleged failure on his part to ensure whether the beneficiaries getting Relief amount come under the guidelines issued in case of 42 ineligible beneficiaries.

(e) As per the guidelines under Ref.Na.Ka.69770/J2/01 dated 11.10.2002 provide for disbursement of Relief amount only after ensuring that the candidate is a genuine member of the society by verifying entrance register being affixed with the photograph of the members. The beneficiaries were identified by none other than



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Mr. R.G.Murugesan, who was the ad hoc President of the Society. In the entire process of identification of beneficiaries, he had played no role at all. Even with regard to the disbursement of amount out of the 42 beneficiaries termed as ineligible, disbursement was made by the petitioner only to 12 members and even in those 12 case beneficiaries who were termed as ineligible, the identification was done by the Executive Committee, before he joined duty there and the entire process of verification of photo, and to certify their credentials by verifying the certificates produced by them, the entire job was already completed, and the petitioner only disbursed the amount as per selection / identification already made. The Charge as to their ineligibility cannot be attributed to the petitioner. In spite of detailed explanations provided during the enquiry consistently, the Enquiry Officer and the Disciplinary Authority failed to apply their mind, and their holding him guilty of the charge and imposing the punishment based on such faulty findings is biased and arbitrary.

(f) The delay in conducting the enquiry is not only in violation of the guidelines provided vide in the Government Letter



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No.1118/Per.N/87 of Personnel and Administrative Reforms (Per-N) Department, Chennai, but has caused heavily by way of affecting his promotion causing irreparable damage to his career. For the alleged misconduct occurred in 2002-2003 and the consequent delay in completing the enquiry process only in 2016, his name was not considered for the promotional panel for the year 2010, 2011, 2012 and 2013 but only for the panel 2015 his name was considered.

(g) On 05.09.2014, the 1st respondent informed about the imposition of punishment of (1) stoppage of increment for 2 years without cumulative effect and (2) recovery of 50% of the loss caused to Government, i.e. Rs.12,600/-. He had filed his defence statement and further representation on the findings of the Enquiry Officer. But his representation has not at all discussed in the findings, holding him guilty of the charges.

(h) The another impugned order, dated 10.05.2016 while rejecting his review petition dated 24.11.2014, passed by the 1st respondent, has again merely conveyed the views of the Tamil Nadu Public Service Commission and conveyed rejection of his review



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petition, without explaining the reasons weighed in favour of their decision for such rejection.

(i) The petitioner would further submit that according to Rule 8 of the Tamil Nadu Civil Services (D & A) Rules withholding of increments as mentioned in (iii) of the said Rule, has been classified as minor penalties. As per proceedings upon Public Services Disciplinary Proceedings issued vide the Letter (Ma) No.94/N/2001 dated 31.05.2001 by the Government of Tamil Nadu, attached to which the Government Circular No.14353/Per.N/93-1, Personnel and Administrative Reforms (N) Department, dated 11.03.1993 has been referred to wherein under Point 6, the method to determine whether charges are to be framed under Rule 17 (b) or Rule 17 (a) has been clarified as below:

TEST	PROCEDURE
a) Is a major penalty warranted Based on the gravity of the Allegations? If yes,	Frame charges under Rule 17 (b)
b) In all other cases	Proceed under Rule 17(a)

In the light of the above two clarifications provided under Rule 17(b) with a bias and in an arbitrary manner and the punishment imposed under such erroneous framing of charges, is illegal and unsustainable.



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(j) Hence, prayed to quash the impugned order dated 10.05.2016 as illegal and consequently direct the 2nd respondent to include the petitioner's name in promotion panel as on 01.05.2010 for Co-operative Sub Registrar and to restore all other attendant consequential benefits.

3. The counter averments filed by the second respondent are as follows:

a. The 1st respondent issued charge memo against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules as per letter No. 20234/FS-2/06-5, dated 02.07.2007 alleging that the petitioner and Thiru.D. Samraj, Inspector of Fisheries had disbursed Relief Fund under the National Savings cum Relief Scheme to 42 ineligible beneficiaries without making any scrupulous verification against the prescribed norms in the year 2002-2003 causing loss of Rs.25,200/- to the Government fund.

b. The Director of Fisheries, Chennai in his letter Rc. 69770/J2/01 dated 11.10.2002 issued instructions while disbursing the

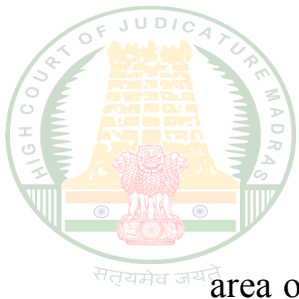


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Relief Fund under National Savings cum Relief Scheme to the members of the Fisheries Cooperative Society. It is the duty of the Special Officer to verify the selected beneficiaries under the scheme with reference to entries made in the Members Admission Book, Pass book issued to the members for having received the subscription to the scheme along with the photos affixed therein. Only actual members, who resides in the area of operation of the society and doing the main activities of fishing for their livelihood shall be enrolled in the Admission Register. Before effecting payments under the scheme, the Special Officer of the society, the petitioner should have verified the beneficiaries under the scheme, ie., he has to verify the name and address of the beneficiary along with the photos affixed both in the Member Admission Book and Pass book and his signature to ascertain whether the beneficiary is bona fide and is residing in the area of operation of the society and doing fishing activities as his main avocation.

c. The petitioner and others were disbursed the Relief Fund under National Savings cum Relief Scheme to 42 ineligible beneficiaries who were not full time fishermen, those who were residing outside the



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area of operation of the society and those who do not engage in full time Fishing activities, but employed in other employment including Government Service, without scrupulous verification and caused loss to the Government fund.

d. Since the petitioner and another employee were responsible for the loss to the Government fund, the 1st respondent framed charges against them under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules without segregating the charges, since the substance of allegations are one and the same.

e. The petitioner, in his representation dated 10.12.2010 to the Enquiry Officer has stated that he did not want to examine any of the witnesses and the Vigilance Officers or to cross examine them since the President of the Society selected the beneficiaries had expired and the 12 ineligible persons admitted before the Vigilance Officials that they have received the relief fund under the scheme. Hence, the allegation that during the process of enquiry he was not allowed to cross examine the witnesses are not acceptable.

f. The petitioner who filed the review petition before the

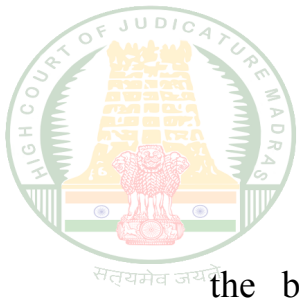


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Government challenging the order of the 1st respondent issued in G.O. (D) No.275 Animal Husbandry, Dairying and Fisheries (F.S.2) Department, dated 05.09.2014 imposing punishment of stoppage of increment for two years. Thus, there is no inordinate delay on the part of the respondents.

g. The contention of the petitioner is that before he joined duty as the Special Officer of the Society, the entire process of verification was already completed by purchaser is not acceptable. The petitioner, who was the Special Officer before making payment under the relief scheme, his bounden duty to verify the credentials of the beneficiary, namely, photos affixed both in the members admission book and in the pass book, signature in the Admission Book, residential address, whether the members are residing in the area of operation of the society and doing fishing activities permanently and if he satisfied about the genuineness, then only he can disburse the relief amount. Without making any scrupulous verification but based on the verification made by his predecessor, the petitioner disbursed the relief amount. During the enquiry, the petitioner has accepted his liability to verify the details of



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the beneficiaries before making payments under the scheme. The disciplinary authority, before imposing the punishment on the petitioner, considered the views of the petitioner and finally passed the order which is not arbitrary and is without any bias.

h. The reasons for the delay in disposing of the disciplinary proceedings are attributable to mainly administrative reasons only and there is no wanton delay. It is submitted that while preparing panel for the post of Cooperative Sub Registrar as on 01.05.2010, 01.05.2011, 01.05.2012 and 01.05.2013 the petitioner's name was not considered for the reason that charges are pending against the petitioner for the above said periods. His name was not considered for the panel as on 01.05.2015 and 01.05.2016 for the reason that the punishment period was still in operation.

i. The charges are serious in nature. Because, the petitioner caused loss to the Government fund to the tune of Rs.25,200/- and hence, the 1st Respondent decided to frame charges under rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. While disposing of the charges framed against the petitioner, the 1st Respondent imposed



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punishment of stoppage of increment for two years without cumulative effect taking into consideration of the facts of the case, which is commensurate with the gravity of charges, the petitioner's explanation given for the charges and the quantum of financial loss to the Government caused by the petitioner etc. The 1st Respondent imposed a lesser punishment taking a lenient view on the petitioner. Therefore, the punishment imposed on the petitioner is not illegal and the charges framed under rule 17(b) are not arbitrary. Therefore, he prayed for dismissal of the writ petition as it is devoid of merits.

4. The averments contained in the rejoinder filed by the petitioner are as follows :

a. That an enquiry officer was appointed on 26.06.2009 and enquiry was conducted and the petitioner submitted detailed explanations provided during the enquiry consistently, the Enquiry Officer and the Disciplinary Authority failed to apply their mind, and their holding him guilty of the charge and imposing the punishment based on such faulty findings is biased and arbitrary.



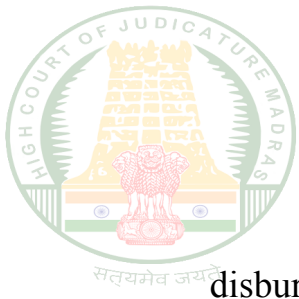
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b. That the disbursement of Relief amount only after ensuring that the candidate is a genuine Member of the Society by verifying Entrance Register being affixed with the photograph of the Member, would be done by the President of the Society and the same was done during the erstwhile officer. That the beneficiaries were identified by non-other than Mr.R.G.Murugesan, who was the President of the Society during the relevant point of time.

c. Therefore, he will not liable for the said misconduct conducting joint enquiry and holding the charges proved without segregating the same would amount that he has completely failed to do my duty. That the enquiry officer has failed to consider the same and held the charges are proved. Therefore the Charge-memo against him issued jointly with D. Samraj, Inspector of Fisheries alleges failure on his part to ensure whether the beneficiaries getting Relief amount come under the guidelines issued in case of 42 ineligible beneficiaries is highly arbitrary and liable to be set aside.

d. That it is pertinent to note that more than 406 Members have been identified by the Executive Committee for the purpose of the

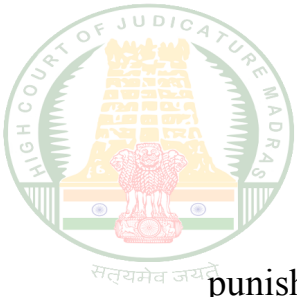


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disbursement of the relief under the said scheme. That the predecessor Special Officer had disbursed the relief amount for around 265 Members and that he has disbursed the relief amount to 106 Members. Further the authorities has failed to be consider that out of the 42 beneficiaries termed as ineligible ones, disbursement was made by him only in the cases of 12 Members and even in case of these 12 beneficiaries termed as ineligible ones, the identification was done by the Executive Committee, which is before he joined duty there, and the entire process of verification of photo, and to certify their credentials by verifying the certificates produced by them, the entire job was already completed. Therefore, that the Charge as to their ineligibility cannot be attributed to him. Hence, the impugned order is liable to be set aside.

e. Further the alleged acts of misconduct occurred in the year 2002-03, and the consequent delay in completing the enquiry process only in 2016, his name was not considered for the panel of promotion for the years 2010, 2011, 2012 and 2013 due to the pending disciplinary proceedings and the year 2015 and 2016 his name was not included due to the currency period. That is amounts to double



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punishment imposed upon him for his name not being included in the panel for the year 2010-2013, despite the fact that the enquiry authority was ordered in the year 2009 and report was filed in the year 2011. Hence, prayed to allow the petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. As per the second respondent instructions were issued by the Director of fisheries, Chennai, in his letter No.RC.69770/J2/01 dated 11.10.2002 while disbursing the relief fund under National Savings cum Relief Scheme to the members of Fisheries Co-operative Society as follows :

Before disbursing the relief fund under the scheme, it is the duty of the Special Officer to verify the selected beneficiaries under the scheme with reference to entries made in the Members' Admission book, passbook issued to the members for having received the subscription scheme along with Photos affixed them. Only actual members, who



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reside in the area of operation of society and doing the main activities of fishing for their livelihood shall be enrolled in the Admission Register. Before effecting payments under the scheme, the Special Officer, viz., the petitioner should have verified the beneficiaries under the scheme, but the petitioner and others disbursed the fund to 42 ineligible beneficiaries who are not full-time fisherman, those who were residing outside the area of operation of society, those who do not engage in full time fishing activities employed in other employment, including Government service, without scrupulous verification and thereby caused loss of Rs.25,200/- to the Government fund. In this connection, the petitioner was issued with charge memo on 09.07.2007.

7. As per the reply submitted by petitioner, the beneficiaries were selected by one R.G.Murugesan, in-charge of the Administrative Committee and his team. One Thiru. D.Samraj was appointed as a Special Officer for Fisheries on 31.05.2002 and he had verified the details of beneficiaries about their genuineness and sent a report on 09.12.2002. Based on his report, permission was granted to distribute the



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relief fund. As per the direction, Thiru.D.Samraj distributed fund on 09.12.2002, 20.12.2002, 11.01.2003 and 30.01.2003. Subsequently, he had handed over charge of Inspector of Fisheries, Mayakulam to the writ petitioner. The petitioner distributed relief fund to 106 beneficiaries out of 141 after verifying their identification cards. Due to suspicion, the relief fund not distributed to 35 beneficiaries. Vigilance Department of Ramanathapuram received complaint that some fraudulent members were included in the society. On 20.02.2003, an enquiry was conducted and the details of beneficiaries who had received the relief fund was handed over to the official. The respondent disqualified 42 beneficiaries but no details furnished for their disqualification. The petitioner distributed relief to 12 disqualified members, however he did not personally selected any of the members.

8. On perusal of the records, this Court finds that the respondents also not stated that the disqualified members were selected by the petitioner, but as per the charge framed against him it was alleged that he has not verified the authenticity of the members while disbursing



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the relief fund. It is also not disputed that the writ petitioner was incharge of the post of Special Officer only on 31.03.2003 and disbursed the amount to certain members who were not selected by him but selected by some other person. The verification report about the genuiness of the members was submitted by Thiru.Samraj, his predecessor. The enquiry report dated 04.12.2011 shows that the witnesses who had appeared for enquiry admitted that they had received the relief fund. None of the beneficiaries stated that they were admitted as members by the writ petitioner but stated that they were admitted as member of society by Mr.Murugesan, much prior to the appointment of the writ petitioner. However, no material available to show that whether action has been taken for the approval of membership by Mr.Murugesan. Anyhow, the petitioner admitted that funds were distributed to 12 persons who were not eligible as per the instructions prescribed by the Director of Fisheries and was awarded punishment.

9. However, the respondents failed to follow the guidelines, stipulated in the Government Letter (Ms) No.1118/Per.N./87 dated



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22.12.1987 issued by the Personal and Administrative Reforms (Per-N) Department, Chennai. In the Guidelines, it is clearly set out the time limit to dispose the disciplinary proceedings :

i. For calling for explanation under Rule 17(a) of the Tamil Nadu Civil Services (Classification, Control and Appeal) Rules or framing charges under 17(b) of the Rules after lapse comes to notice ... 15 days

ii. For the accused Officer to peruse the records and to submit his written explanation ... 30 days.

iii. For appointment of Enquiry Officer wherever necessary after the receipt of explanation ... 7 days

iv. For the Enquiry Officer to complete enquiry to submit the enquiry report ... 30 days

v. For the Disciplinary Authority to take a decision after receipt of Enquiry Officer's report ... 10 days.

vi. For obtaining the views of TNPSC whenever it is consulted ... 30 days

vii. For issue of final orders on the Departmental disciplinary proceedings :-



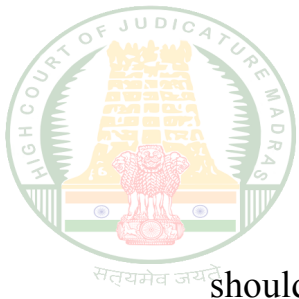
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- a. By Disciplinary Authorities other than Government. ... 7 days.
- b. By Departments of Secretariat which have to consult other Departments and obtain orders in circulation. ... 30 days.

10. In the above Order, it is further stated that any Disciplinary Authority is not able to adhere to the above time limits, he should obtain the specific orders of the next higher authority for grant of extension of time, explaining the circumstances under which it has not been possible to process the case within the time limits prescribed. In case where the delay occurs due to non-cooperation on the part of the accused officer, it is not necessary to wait indefinitely either for their explanation or further appearance before the Enquiry Officer reminders on the officers to submit their explanation and wherever the explanations are not received in spite of those reminders without valid reason. The Disciplinary Authorities could proceed on the assumption that the accused officer have no explanation to offer. It was clearly stated that the object behind the issue of the instruction is that delay while processing disciplinary cases should be avoided. At the same time, it



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should be clearly remembered that while handling the disciplinary cases, all the procedures and formalities contemplated in the rules should be followed without any default.

11. However, the Disciplinary Authorities failed to follow the procedures, there was delay in each stages :

a) alleged irregularities committed during the year 2002, 2003 viz., 31.01.2003.

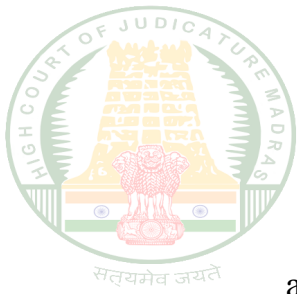
b) Charge is framed after delay of four years, namely, 02.07.2007 signed by the authority on 09.07.2007.

c) The delinquent received the same on 01.08.2007 and sent written statement of defence on 29.12.2008.

d) The Enquiry Report submitted on 14.12.2011 (after three years), the said report was issued to the delinquent on 08.06.2012.

e) The delinquent submitted his representation on 28.07.2012.

f) The secretary, Tamil Nadu Public Service Commission



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approved the Enquiry Report on 03.07.2014.

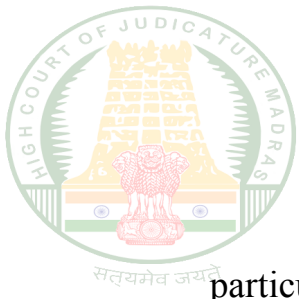
g) The final order passed on 05.09.2014.

h) The review petition filed by the delinquent on 24.11.2014.

i) The same was rejected on 10.05.2016.

12. The delinquent pointed out delay caused by the respondents, but no convincing reason stated for the delay. The alleged irregularity committed in the year 2003, but punishment was imposed on 05.09.2014 after lapse of 11 years which is against the direction issued in the Government letter dated 22.12.1987.

13. Due to the delay in the disciplinary procedure, the writ petitioner was not considered for the panel of promotion for the year 2010, 2011, 2012 and 2013, there is no records produced by the respondents to show that the Enquiry Officer obtain specific orders for extension of time for completing the enquiry. In each stage, there is enormous delay which is violation of the principle of natural justice,



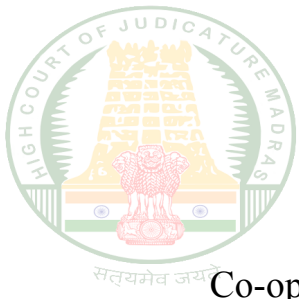
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particularly, the right to speedy enquiry. In spite of the specific time limit set up in different stages, the respondents delayed the disciplinary proceedings by only stating that the delay occurred due to administrative reason. Prolonged delay can vitiate the disciplinary proceedings therefore, the proceedings is liable to be quashed .

14. This Court find that, due to the inordinate delay, without sufficient cause by the respondents, the promotion avenue of the petitioner was affected which was admitted by the respondents which is against the interest of natural justice and therefore, the impugned order is liable to be quashed.

15. Therefore, the Writ Petition stands allowed and the impugned order in G.O.(D) No.275 dated 05.09.2014 and consequential Impugned Order in G.O.No.178 dated 10.05.2016 of Animal Husbandry Dairying and Fisheries (FS2) Department on the file of the first respondent are hereby quashed. The second respondent is directed to include the petitioner's name in promotion panel as on 01.05.2010 for



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Co-operative Sub Registrar, if he is not disqualified in any other proceeding and to restore all other attendant consequential benefits. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

16.04.2025

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

RM



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- 1.The Secretary to Government,
Government of Tamil Nadu,
Animal Husbandry Dairying & Fisheries (FSII) Department,
Secretariat,
Chennai - 600 009.
- 2.The Registrar of Co-Operative Societies,
Kilpauk,
Chennai - 600 010.



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R.POORNIMA, J.

RM

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