



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2011

CORAM:

THE HONOURABLE MR. JUSTICE S. MANIKUMAR

W.P. (MD) .No.8430 of 2011 And

M.P. (MD) .No. 1 of 2011

A.Pari

... Petitioner

-Vs-

1. The Agricultural Production Commissioner and
Principal Secretary to Government
Agriculture (AA-2) Department
Secretariat, Chennai - 600 009

2. The Joint Director of Agriculture
Virudhunagar District
Virudhunagar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent relating to Government letter No. 27103/AA-2/2005-14 dated 01.10.2010 and quash the same and consequently direct the respondents to send pension proposals within a specified time.

For Petitioner : Mr.S.Visvalingam

For Respondents: Mr.T.S.Mohamed Mohideen

Additional Government Pleader

O R D E R

The Writ Petition has been filed to quash the proceedings of the Agricultural Production Commissioner and Principal Secretary to Government, Agriculture (AA-2) Department, Secretariat, Chennai - 600 009, the first respondent herein, in Letter No. 27103/AA-2/2005-14, dated 01.10.2010, by which, disciplinary action has been taken against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

2. According to the petitioner, he entered service as a Deputy Agricultural Officer in the year 1977 and later promoted to the post of Deputy Director of Agriculture, Theni. He attained the age of superannuation on 31.05.2011 and that he was allowed to retire on 31.05.2011, in G.O.(3-D) No. 107, Agriculture Department, dated 31.05.2011, without prejudice to the disciplinary proceedings pending against him. Lateron, the Government framed charges, which are impugned in this Writ Petition, alleging that the Agriculture Officer, Srivilliputhur, issued identity cards in the name of the



farmers without field verification and ownership of the lands, which facilitated middle men and traders to sell copra in Co-operative Marketing Society Ltd., between June 2000 and April 2001. The charge memo has been communicated to the petitioner, by the Joint Director of Agriculture, Virudhunagar, dated 27.10.2010.

3. The petitioner has further submitted that earlier, criminal cases were registered against the subordinates in the Agriculture Department and Revenue Department and that the same were withdrawn as per G.O. 210, Agriculture Department AA-2, dated 09.10.2009. Pursuant to which, the impugned disciplinary proceedings have been initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The impugned charge memo has been challenged mainly on the ground of inordinate delay.

4. Reliance has been placed on the decisions of this Court in **P.V.Mahadevan Vs. M.D. Tamil Nadu Housing Board**, reported in **2005(4) CTC 403**, in **W.A.Nos. 586 and 587 of 2007**, dated 05.11.2007; in **W.A.No. 610 of 2008**, dated 06.03.2009; in **T.N.Principal Secretary Home (SC) Department, Chennai and another Vs. R.Ramaraman, IPS Superintendent of Police T.N.Commando Ch-28 and other**, reported in **2009(3) TLNJ 132 (Civil)**; and in **B.K.Gunasekaran V. State of T.N.** reported in **2010(7) MLJ 161**.

5. Attention of this Court has also been invited to an order made in **W.P.No. 8924 of 2006 & 6508 of 2009**, dated 17.03.2010 in **L.Frederick Jayaseelan Vs. The Government of Tamil Nadu rep. by its Agricultural Production Commissioner and Secretary to Government and others**, wherein this Court, after considering the facts and placing reliance on the decisions of the Hon'ble Supreme Court in **P.V.Mahadevan Vs. M.D. Tamil Nadu Housing Board (stated supra)** and other cases, has quashed the departmental proceedings initiated against the petitioners therein. At paragraph No.8 of the order, a learned Single Judge of this Court has held as follows:-

"In view of the judicial dictum laid down by the Apex Court, applying the same to the facts of the present case, there is absolutely no difficulty to conclude that the order of suspension as well as the impugned charge memo are illegal. Since the respondent has not chosen to explain the reason for delay, I am of the considered view that the impugned charge memo is liable to be set aside."

6. There is no quarrel over the similarity of the facts, with the one stated supra. Even Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader, who took notice for the respondents, fairly submitted that disciplinary action initiated against the



officials of the Agricultural Department for the alleged delinquency, has been quashed in many cases. No appeal seemed to have been filed against the order made in W.P.Nos. 8924 of 2006 and 6508 of 2009, dated 17.03.2010.

7. Considering the submissions of both sides and after going through the materials on record and on perusal of the order made in the abovesaid Writ Petitions in W.P.Nos. 8924 of 2006 and 6508 of 2009, dated 17.03.2010, this Court is of the considered view that the petitioner is entitled to the benefit of the orders stated supra. The facts are similar and there is no explanation for the inordinate delay.

8. For the reasons stated supra, the impugned order is set aside and the Writ Petition stands allowed. The respondents are directed to send the pension proposals within three months from the date of receipt of a copy of this order.

9. The Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Agricultural Production Commissioner and
Principal Secretary to Government
Agriculture (AA-2) Department
Secretariat, Chennai - 600 009
2. The Joint Director of Agriculture
Virudhunagar District
Virudhunagar

+one cc to Special Government Pleader, Sr.No. 25347

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vsg

SMA/03.8.2011/4C/3P