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W.P.No.9818 of 2013 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.9818 of 2013, 329 & 7688 of 2014 and 525 of 2016
W.M.P.No.31578 of 2017, M.P.No.1 of 2014 and W.M.P.No.359 of 2016

W.P.No.9818 of 2013 :-

K.Karuppa Pillai

... Petitioner

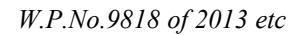
Vs.

1. The State of Tamil Nadu rep. by its
Secretary to the Government,
Handloom, Handicrafts, Textiles
and Khadi Department,
Fort St. George,
Chennai – 600 009.

2. The Chief Executive Officer,
Tamil Nadu Khadi & Village
Industries Board,
Kuralagam,
Chennai – 108.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the first respondent in G.O.Ms.No.11, Handlooms, Handicrafts, Textiles and Khadi (F1) Department, dated 17.01.2013 and the consequential order issued by the second respondent in Proc. RC No.1845/Pen (2)/ 2013 dated 11.10.2017



For Petitioner : Mr.R.Prem Narayan
For Respondents
For R1 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R2 : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.S.K.Bose
Standing Counsel.

R.Thirunavukkarasu

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Khadi Village
Industries Board,
Chennai – 9.
2. The Principal Secretary,
Government of Tamil Nadu,
Handloom, Handicrafts, Textiles
and Khadi (F1) Department,
Secretariat,
Chennai – 9.
3. The Chief Executive Officer,
Tamil Nadu Khadi Village
Industries Board,



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Kuralagam,
Chennai – 108.

4. The Enquiry Officer/
General Manager,
Central Office,
Tamil Nadu Khadi Village
Industries Board,
Kuralagam,
Chennai – 108.

5. The Assistant Director,
Tamil Nadu Khadi Village
Industries,
Karur.

6. P.Balasubramaniam
@ Avinasi Babu

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records in pursuant to the punishment order issued to the petitioner vide G.O. (3D) No.1, Handlooms, Handicrafts, Textiles and Khadi (F1) Department dated 04.09.2013 by the second respondent and quash the same and consequently direct the respondent to reinstate the petitioner in his services with all consequential and attendant benefits

For Petitioner : Mr.T.P.Prabakaran

For Respondents

For R1, R3 to R5 : Mr.R.Neelakandan

Additional Advocate General

Assisted by Mr.S.K.Bose

Standing Counsel.

For R2 : Mr.L.S.M.Hasan Fizal

Additional Government Pleader



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W.P.No.7688 of 2014 :-

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T.Ganesan

... Petitioner

Vs.

1. The Principal Secretary,
Government of Tamil Nadu,
Handloom, Handicrafts, Textiles
& Khadi Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Chief Executive Officer,
Tamil Nadu Khadi & Village
Industries Board,
Kuralagam,
Chennai – 600 108.

3. The Assistant Director,
Khadi & Village Industries,
Trichy – 620 001.

4. P.Balasubramaniam
@ Avinasi Babu

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in the impugned order dated 04.09.2013 bearing reference G.O. (3D) No.3 Handlooms Handicrafts Textiles and Khadi Department of the first Respondent and to quash the same and consequently direct the respondent to reinstate the petitioner notionally to the service from the date of illegal suspension with all consequential and attendant benefits.



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For Petitioner : Mr.T.Mohan, Senior Counsel
For Mr.R.Anish Kumar

For Respondents
For R1 : Mr.L.S.M.Hasan Fikal
Additional Government Pleader
For R2 & R3 : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.S.K.Bose
Standing Counsel.

W.P.No.525 of 2016 :-

A.Sethuraman

... Petitioner

Vs.

1. The Principal Secretary,
Handloom, Handicrafts, Textiles
and Khadi Department,
Fort St. George,
Chennai – 600 009.

2. The Chief Executive Officer,
Government of Tamil Nadu,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam,
Chennai – 600 108.

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order G.O.No.(3d)No.07 Handlooms, Handicrafts, Textiles and Khadi Department (f1) dated 12.12.2014 passed by the first respondent herein and quash the same as against the basic principles of natural justice, enabling the petitioner herein to retire with all attendant benefits.



W.P.No.9818 of 2013 etc

For Petitioner : Mr.G.Thangavel
For Respondents
For R1 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R2 : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.S.K.Bose
Standing Counsel.

COMMON ORDER

All these writ petitions have been filed challenging the impugned orders passed by the first Respondent, thereby imposing punishment of compulsory retirement and also ordered to recovery of money from the petitioners' gratuity amount.

W.P.No.7688 of 2014 :-

2. The petitioner had joined in the service of the second respondent as Assistant on 29.10.1969. During the period from 21.12.1992 to 31.01.1995, while he was working as Assistant in the third respondent's office and also holding additional charge of the post of Special Officer in the Trichy Leather Tannery Workers Industrial Co-operative Society (hereinafter called as “the society”). While being so, the government by G.O.(Ms)No.300, Social Welfare and Nutritional



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Food Scheme Department dated 28.10.1993, had issued orders for production and distribution of one lakh pair of chapels to the society under the scheme for distribution of free chapels to school children for the year 1993-94.

2.1. Accordingly, the second respondent issued cheque for a sum of Rs.8,87,500/- on 08.12.1993 to the society as advance to the cost of 50% of one lakh pair of chapels and the same was deposited on 08.12.1993. By the proceeding dated 17.12.1993, the third respondent had withdrawn the said amount from the bank and paid to the fourth respondent on 18.12.1993, who was member of the society. The petitioner followed up and requested the fourth respondent to expedite the production and supply of chapels. It was time to time followed by the petitioner by the notices and reminders. On 30.05.1994, the second respondent vide its proceeding issued details of chapels viz., the size and quantity of pairs and furnished the information to the Project Manager of Tamil Nadu Leather Development Corporation Limited, Chennai.



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2.2. In the meanwhile, the petitioner was relieved from the post of Special Officer of the society on 31.01.1995 on his promotion as Superintendent and joined in the office of the Regional Deputy Director Office, Trichy. After three years, the petitioner was suspended from service on 03.06.1998 under the Regulation 31(a)(i) of Khadi Board's Service Regulations by the second respondent by the proceeding dated 02.06.1998. Thereafter, the Vigilance and Anti-Corruption Department made detailed enquiry and registered case as against the petitioner and others in Special C.C.No.2 of 1998 on the file of the Special Judge-cum X Additional Sessions Judge, Chennai.

2.3. The trial Court framed charges for the offences under Section 409 of IPC and Section 13(2) r/w 13(1)(c) of the Prevention of Corruption Act, alleging that the petitioner had committed criminal breach of trust and dishonestly handing over a sum of Rs.8,44,800/- to the fourth respondent and thereby caused loss to the government. The trial Court after the full fledged trial acquitted the petitioner on the ground that there is no pecuniary loss to the government and there is no pecuniary advantage to the petitioner and the charges itself baseless, by



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an order dated 22.04.2004. Aggrieved by the same, the prosecution filed an appeal before this Court in Crl.A.No.1034 of 2004 and the same was also dismissed by this Court by an order dated 21.08.2008.

2.4. During the pendency of the criminal appeal before this Court, the second respondent issued charge memo dated 04.08.2005, consisting two charges as follows :-

“CHARGE NO.1:

That while the petitioner was working as Special officer of Trichy Leather Tannery workers Industrial Co-operative Society, under the control of Assistant Director (K&VI), TRICHY, the Government paid Rs.8,87,500 to the society as 50% advance for 50,000 pair of chapels under the scheme "Free distribution of chapels to school children for 1993-94" as per G.O.(Ms) No.300, Social Welfare and Nutrition Dept., dated 28.10.1993, out of which the petitioner have not distributed any chapels and thereby caused loss Rs.8,87,500 to the Government.

CHARGE NO.2:

That the petitioner failed to discharge my duty properly and acted against the Tamil Nadu Government Servants Conduct Rules.”



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WEB COPY 2.5. Without satisfying the explanation submitted by the petitioner, the second respondent ordered to conduct domestic enquiry. Accordingly, the domestic enquiry was conducted and during the enquiry, the petitioner attained the age of superannuation 30.06.2008. However, he was not allowed to retire and continued to be under suspension. After enquiry, the enquiry officer submitted report dated 15.10.2008 and the petitioner was served with the said enquiry report along with show cause notice. On receipt of the same, the petitioner submitted detailed reply. However, the disciplinary authority viz., the first respondent held that both the charges as against the petitioner were proved and imposed punishment of compulsory retirement by an order dated 04.09.2013 and also ordered recovery of loss from the petitioner's death cum retirement gratuity benefits. Challenging the said order, the petitioner filed the present writ petition with the above prayer.

W.P.No.9818 of 2013:-

3. While, the petitioner was working as Assistant Director (Silk) at Salem, he was not allowed to retired and he was placed under



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suspension by the proceedings dated 26.04.2010. He was due for retirement on 31.05.2010. He was working as Superintendent and additional charge of Special Officer in Kuppur Chappal and Leather Producers Co-operative Stores (hereinafter called as “the society”) during the year 1993-94, for 74 days and thereafter he relieved from the said post. However, after the lapse of 11 years, the second respondent issued charge memo dated 04.08.2008 alleging that the order of chapels to be supplied under the free chapels scheme as per the agreement which resulted in loss to the government.

3.1. The petitioner submitted his explanation and without satisfying the same the enquiry was ordered. After completion of enquiry, the enquiry officer submitted his report dated 22.02.2008, holding that the charges are proved. It was served on the petitioner along with show cause notice. On receipt of the same, the petitioner submitted his explanation dated 18.04.2008. In the mean while, the petitioner challenged the disciplinary proceedings in W.P.No.12924 of 2010 and this Court by an order dated 05.09.2011, directed the first respondent to pass final order. Thereafter, the first respondent passed final order dated



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17.01.2013, thereby imposed punishment of compulsory retirement and recovery of Rs.8,87,500/- and it was deducted as a whole from his death cum retirement gratuity. Aggrieved by the same, the present writ petition has been filed.

W.P.No.329 of 2014 :-

4. The petitioner was appointed as Manager-cum-Accountant in A-type Footwear and Leather Goods Sale Shop, Trichy, by an order dated 22.08.1988, in the office of the Assistant Director (K&VI), Trichy. Thereafter, the petitioner was promoted as Supervisor, Grade-IV and once again he was promoted as District Inspector of Cottage, Industries Grade-II on 11.09.1992 in the office of the Assistant Director (K & VI), Karur. Thereafter he was transferred to Vellore by an order dated 30.05.1994 and he was relieved from the fifth respondent office on 06.07.1994.

4.1. In the mean while, he was posted as Special Officer for eight co-operative societies by an order dated 23.11.1993. As per the resolution passed by the Sevappur Adi Dravidar Leather Goods



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Manufacturers Industrial Co-operative Society (hereinafter called as “the society”) dated 20.11.1993, a sum of Rs.8,85,000/- was paid in favour of the sixth respondent herein as a member of the said society for manufacturing of foot wears. Accordingly, a sum of Rs.4,00,000/- was paid on 23.12.1993 and another sum of Rs.4,85,000/- was paid on 28.12.1993, towards the advance amount for supply of foot wears.

4.2. The petitioner had worked as Special Officer in the said society from 23.11.1993 to 06.07.1994 for the period of seven months 13 days. In fact, the detailed estimation regarding size and quantity of chapels was given by the Project Manager on 30.08.1994. By that time, the petitioner was already relieved from the post of Special Officer. The society was ordered to supply of 50,000 pairs of chapels and as on 01.09.1996, 25,040 pairs of chapels were supplied and remaining chapels were yet to be manufactured and supplied. Therefore, the petitioner was placed under suspension by an order dated 02.06.1998 issued by the third respondent, as per the Tamil Nadu Kadi and Village Industries Boards Service Regulations.



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4.3. On the criminal compliant, the Vigilance and Anti corruption filed charge sheet and the same has been taken cognizance in Spl.C.C.No.2 of 1998 on the file of the Special Judge-I cum X Additional Sessions Judge, Chennai. However, the petitioner was acquitted by an order dated 22.01.2004 and the same was also confirmed by this Court in Crl.A.No.1034 of 2004 by an order dated 21.08.2002. Thereafter, the petitioner was served with charge memo dated 04.08.2005 consisting of two charges. The first charge is that while he was working as a special officer at Sevappur Leather Workers Co-operative Society, an amount of Rs.8,87,500/-was disposed as 50% advance for the supply of 50,000 pairs of chapels and from that only 25,040 pairs of chapels were distributed and remaining 24,860 of chapels are yet to be distributed and hence as a special officer the petitioner had failed in his duty in non manufacturing the chapels for the above amount and thereby caused a revenue loss of Rs.4,43,040/- to the Government. The second charge is that the petitioner had not performed his duty properly and acted against the Government Servants Conduct Rules.



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4.4. On receipt of the same, the petitioner submitted his explanation and without satisfying the same, the enquiry officer was appointed to conduct enquiry. After completion of enquiry, the enquiry officer submitted his representation and held that both charges were proved against the petitioner. Thereafter, the petitioner was served with show cause notice along with the enquiry report. In pursuant to the enquiry report, the first respondent passed the impugned order dated 04.09.2013, imposing punishment of compulsory retirement from service and also recovery of loss from the amount payable to the petitioner's death cum retirement gratuity benefits. Hence, the petitioner approached this Court with the present writ petition.

W.P.No.525 of 2016 :-

5. The petitioner was appointed as lower division Clerk on 09.03.1966 and thereafter he was promoted to the post of District Inspector of Cottage Industries. On 07.01.1986, he was promoted to the post of Assistant Director and joined in Kancheepuram District on 15.11.1992 and worked upto 18.01.1994 as Assistant Director.



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Thereafter on 19.01.1994, he was promoted to the post of Deputy Director and further promoted to the post of Joint Director on 13.05.1998.

5.1. When the petitioner was due to retirement on his attainment of superannuation on 31.03.2003, he was suspended from service by an order dated 28.03.2003. Thereafter, the petitioner was served with charge memo dated 04.08.2005, by the second respondent alleged that he is liable to be held responsible for the loss of money to the tune of Rs.11,10,635.25, in the matter of distribution of free chapels to the student community through the industrial co-operative society viz., Kattankolathur Multi Purpost Co-operative Society (hereinafter called as “the society”) during the period 1993-94.

5.2. The petitioner submitted his explanation for the charges and without satisfying the same, the enquiry officer was appointed to conduct enquiry. The enquiry officer conducted enquiry and held that both the charges are not proved. The petitioner was issued show cause notice along with the enquiry report. The petitioner submitted detailed



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explanation. Even then, the first respondent passed the impugned order thereby imposing punishment of compulsory retirement and ordered to recovery of loss amount. Subsequently, by an order dated 03.08.2015, ordered to recover a sum of Rs. 11,06,635.25 from the petitioner's death cum retirement gratuity amount. Aggrieved by the same, the petitioner approached this Court by way of the present writ petition.

6. The learned counsel appearing for the petitioner in W.P.No.7688 of 2014 submitted that the petitioner was served with charge memo after the period of 11 years from the date of the alleged occurrence. The first respondent passed non speaking order without even referring the explanation submitted by the petitioner for each and every allegations and without adhering to the proceedings. The first respondent straight away imposed punishment of compulsory retirement without any valid reason.

6.1. The charge memo itself was issued after the acquittal order passed by the trial Court and the said order was also confirmed by this Court. In fact, the fourth respondent examined as P.W.2 before the trial



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Court. He categorically deposed that as per the order given by the society, he had supplied all the chapels and the same were distributed to the school children under the scheme. Therefore, there was absolutely no loss to the government. Further the role of the petitioner was very limited and the said amount was paid as advance that too as per the direction issued by the third respondent. Hence there is no question of dereliction of duty or misappropriation of fund and fraud committed by the petitioner. Even as per the charge, the petitioner failed to distribute any chapels under the free chapels to school children for 1993-94 scheme. The order was placed before the fourth respondent and accordingly the fourth respondent supplied the chapels. Thereafter it was distributed to the school students. It is evidence from the deposition of P.W.2 viz., P.Balasubramanian @ Avinasi Balu, before the criminal Court.

6.2. He further submitted that the order of punishment is arbitrary in nature and inflicted with major punishment of compulsory retirement of service and also recovery of alleged loss, though there was no misappropriation or loss or fraud or criminal conspiracy. The enquiry officer concluded that the loss is attributed to the petitioner's negligence



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or breach of the order of the government and the loss must have been proved. Whereas these grounds are not disclosed in the impugned order to pass an order of compulsory retirement. Even according to the enquiry report, there was no wrongful or *malafied* intention proved as against the petitioner. That apart, there was no breach of trust proved as against the petitioner. In fact, the fourth respondent was not examined by the enquiry officer to prove the charge as against the petitioner. In fact, after advancing the amount, the petitioner vide letter dated 25.02.1994 issued to the fourth respondent to expedite the supply of the chapels. Subsequently, by the proceeding dated 22.11.1994, the third respondent initiated surcharge proceedings as against the fourth respondent. However, the enquiry officer failed to record any of the evidence from the petitioner or from others and without application of his mind mechanically concluded that the charge were proved as against the petitioner.

6.3. Further, the alleged occurrence was taken place during the year 1993. Whereas the charge memo was issued by the second respondent in the year 2005 viz., after the period of 11 years. The



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domestic enquiry was conducted after the gap of another two years. The huge delay in conducting the departmental proceedings was not explained by the disciplinary authority. After verdict of the criminal Court that too after confirmed the order of acquittal by this Court, the disciplinary proceeding was initiated as against the petitioner. The petitioner was suspended from service on 03.06.1998 and the final order was passed on 04.09.2013, thereby ordered for compulsory retirement.

7. The learned counsel appearing for the petitioner in W.P.No.9818 of 2013 submitted that the petitioner was in charge of Superintendent/ Special Officer in Kuppur Chappal and Leather producers Co-operative Stores during the year 1993-94, for the period of only 74 days and thereafter, he was relieved from the said post. After the lapse of 11 years, he was served with charge memo dated 04.08.2005 alleging the order of chapels to be supplied under the free chapel scheme were not supplied as per the agreement which resulted in loss to the government.



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7.1. The government issued orders in G.O.Ms.300 Social Welfare Department dated 28.10.1993 allotting a sum of Rs.8,87,500 as 50% advance amount to the fourth respondent for manufacturing of 50,000 pairs of chapels. On receipt of the said amount, the fourth respondent failed to manufacture and distribute the chapels under the scheme. There was several communication to show that those chapels were manufactured as per the order. Further once the instructions regarding delivery point were received from the Assistant Educational Officer, the chapels would be distributed. Further those chapels were not distributed only because of the non instruction from the superior officers to distribute the chapels in favour of the beneficiary.

7.2. He further submitted that the advance amount was paid as directed by the Additional Director and counter signed by the Assistant Director. Even then, the petitioner was not allowed to retire from service and he was placed under suspension by the proceedings dated 26.04.2010. Subsequently, by the final order dated 17.01.2013, he was compulsorily retired from service and ordered to recover the loss from his retirement benefits to the tune of Rs.8,87,500/-.



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7.3. He further submitted that simultaneously, a criminal case was registered in this regard as against the accused persons, in which the petitioner is shown as witness. The petitioner neither shown as accused and nor convicted. Even then, he was imposed with the punishment of compulsory retirement. In fact, the criminal case was also ended in acquittal and the same was also confirmed by this Court in CrI.A.No.1034 of 2004. Hence, he prayed to set aside the impugned order passed by the first respondent.

8. The learned counsel appearing for the petitioner in W.P.No.525 of 2016 submitted that the petitioner was initially appointed as lower division Clerk in the year 1966 and subsequent he was promoted to the post of District Inspector of Cottage Industries and posed at Thiruvannamalai. Thereafter, he was promoted as Assistant Director and posted at Kancheepuram District on 15.11.1992 and worked upto 18.01.1994. From 19.01.1994, he was allowed to join as Deputy Director in the head office, Chennai and subsequently he was promoted as Joint Director on 13.05.1998. When he was due retire on 31.03.2003,



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he was suspended from service on 28.03.2003. Thereafter, he was compulsorily retired by an order dated 12.12.2014.

8.1. He further submitted that the petitioner was served with charge memo dated 04.08.2005 alleging that he is liable to be held responsible for the loss of money to the tune of Rs.11,10,635.25, in the matter of distribution of free chapels to the students through the industrial co-operative society viz., Mudichur Leather Workers Industrial Co-operative Society and also Kattankolathur Multi Purpose Co-operative Society, during the period 1993-94. However, the petitioner was promoted and posted as Deputy Director on 13.01.1994 and transferred to Kuralagam, Head Office, Chennai and he had joint duty on 19.01.1994 as Deputy Director. Whereas the cause of action arose only after 17.02.1994. Therefore, the charge itself is not valid. Further, the charge memo was issued after the period of 11 years from the date of the alleged occurrence.

8.2. He further submitted that no criminal case was registered as against the petitioner and the criminal case registered as against other



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persons ended in acquittal. After confirmed the order of acquittal by this Court, the petitioner was served with charge memo dated 04.08.2005.

That apart, the first respondent passed non-speaking order without considering the explanation submitted by the petitioner. Hence, he prayed to set aside the impugned order passed by the first respondent.

9. The learned counsel appearing for the petitioner in W.P.No.329 of 2014 submitted that the first respondent imposed punishment of compulsory retirement and also ordered to recovery of loss caused to the government from the petitioner's death cum retirement gratuity benefits. He had worked as Special Officer in Sevappur Adi Dravidar Leather Goods Manufactures Industrial Co-operative Society from 23.01.1993 to 06.02.1994. As per the government order in G.O.Ms.No.300, placed order to the sixth respondent for supply of 50,000 pairs of chapels and 50% of the cost to the tune of Rs.8,87,500/- was paid as advance. But, only 25,040 pairs of chapels were distributed and balance 24,960 chapels were not distributed. As Special Officer, the petitioner failed in his duty that non supply of entire quantity of chapels and thereby caused revenue loss of Rs.4,43,040/- to the government.



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9.1. In pursuant to the said charge, the petitioner was suspended from service and criminal case was also filed as against the petitioner. It was culminated in Spl.C.C.No.2 of 1998 on the file of the Special Judge-I cum X Additional Sessions Judge, Chennai. The criminal case was ended in acquittal and the same was also confirmed by this Court in CrI.A.No.1034 of 2004. Thereafter, the petitioner was served with charge memo dated 04.08.2005. Therefore, the entire proceedings are vitiated due to huge delay in serving charge memo. He further submitted that there was absolutely no evidence to show that the petitioner had committed any offence.

9.2. In fact, before the criminal Court the manufacturer viz., sixth respondent herein deposed that he supplied entire quantity of chapels as per the order. It was also accepted by the trial Court as such the trial Court could not find any misappropriation or wrongful gain by the petitioner. Therefore, there was no loss to the government as alleged in the charge. The disciplinary authority without even perusing any documents and concluded that both the charges against the petitioner



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were proved and imposed punishment of compulsory retirement and ordered to recovery. Hence, he prayed to allow the writ petition by setting aside the impugned order.

10. In all the writ petitions the second respondent filed counter and the learned Additional Advocate General appearing for the respondent submitted that the government vide its order in G.O.Ms.No.300 Social Welfare and Nutritious Meal Programme Department dated 28.10.1993 had ordered for the supply of 19.50 lakh pairs of chapels to school going children and 15 societies functioning under the control of Tamil Nadu Khadi & Village Industries Board were selected and orders distributed to them for production of chapels. Among the 15 societies selected by the government, the petitioners' societies were among them and they were ordered with production of one lakh pair of chapels. The government has also sanctioned 50% advance amount to carry out the duty of 50% of supply order.

10.1. He further submitted that in pursuant to the respective orders, the petitioners advanced the entire 50% of the amount and failed



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to monitor about the supply of chapels. Having received the advance amount for supply of chapels, the society had not supplied even a single pair of chapel till date. The lapse on the part of the petitioner in releasing the advance amount in installment after verifying the production made for the advance already sanctioned led to the member in having swindled the entire advance amount without supplying of chapels. Therefore, the petitioner miserably failed to disburse the amount in installments and also failed to monitor the production and supply of foot wear properly, which was the main reason for the loss to the government. Further the petitioners also failed to release the advance amount gradually after reviewing the performance on the production and supply of chapels.

10.2. He further submitted that on the outcome of the investigation by the Vigilance & Anti Corruption, a criminal case was registered against some of the petitioners herein and others for non supply of chapels for school going children after getting advance amount from the government. Immediately after registration of the criminal case, they were placed under suspension, as per the regulation of the board. Further the criminal case was ended in acquittal on the ground that the



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prosecution failed to prove the case with satisfactory evidence and

therefore the benefits of doubt must be given in favour the accused. It

was also confirmed by this Court in the appeal against the order of acquittal. Therefore, the act of the petitioners in violation of regulation and as such they were served with charge memo under regulation 34(b) of Tamilnadu Khadi and Village Industries Board's Service Regulations consisting two counts of charges dated 04.08.2005. They were issued with show cause notice and on receipt of their explanation, the disciplinary authority having not been satisfied, ordered domestic enquiry. During the domestic enquiry, the petitioners were given opportunity and finally, the enquiry officer concluded that both the charges were held to be proved against them. On the basis of the enquiry report, and the explanation submitted by the petitioners, the first respondent passed the final order thereby awarded punishment of compulsory retirement from service and also ordered to recovery of loss amount from their respective death cum retirement gratuity benefits.

10.3. He further submitted that the nature and scope of the criminal case are completely different from the departmental



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proceedings. Therefore, the order of acquittal cannot conclude the departmental proceedings. The petitioners had taken nearly three years to submit their explanation for the charge memo dated 04.08.2005. Further after the acquittal of the criminal case, the petitioners were served with charge memo. Therefore, there was absolutely no delay in initiating the departmental proceeding.

10.4. He further submitted that for the loss caused by the petitioners, with no other alternative measures to make good the loss, the government had adjusted the loss vide G.O.Ms.No.125 Handlooms, Handicrafts, Textiles and Khadi (F2) Department, dated 19.07.1999, a sum of Rs.63,54,127/- from out of the net cost grant payable to the Board by the government and remitted it to the Social Welfare Department by whom the above supply order was given. For the loss caused by the societies, the board suffered loss due to reduction in net cost grant amount payable by the government. The scheme of distribution of free chapels to school going children was not fulfilled due to the illegality committed by the petitioners herein. Therefore, they committed very serious charges and the same were proved against them. Hence, the first



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respondent imposed punishment of compulsory retirement and also ordered to recovery of loss amount from their respective death cum retirement gratuity.

11. Heard the learned counsel appearing on either side and perused the material placed before this Court.

12. During the year 1993-94, the government vide its order in G.O.Ms.No.300 Social Welfare and Nutritional Food Scheme Department dated 28.10.1993 had ordered for supply of 19.50 lakhs pairs of chapels for school going children and 15 societies functioning under the control of the Tamil Nadu Khadi and Village Industries Board were selected. The orders were distributed to the said societies for production of chapels among them and the petitioners' societies were also ordered with production of one lakh pair of chapels. The government also sanctioned 50% advance to carry out the supply order.

13. The petitioners were working as Special Officer/Assistant Director during the relevant period viz., 1993-94. They placed order for



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the manufacturing of free chapels with its members viz., fourth respondent in W.P.No.7688 of 2014 and sixth respondent in W.P.No.329 of 2014. They released the advance payment in two installments to its member but the member failed to supply the chapels as ordered by the petitioners. Therefore, on complaint, a case has been registered by the Director, Vigilance and Anti Corruption against the petitioners and others, except the petitioner in W.P.No.525 of 2016, in Crime No.12/AC/95-MCII/D.V.A.C.

14. After completion of investigation, the charge sheet has been laid for the offences under Sections 120-B, 408, 409, 477A of IPC, and Section 7 and 13(2) r/w 13(1)(c)&(d) of Prevention of Corruption Act, 1988 and under Section 109 r/w 409 of IPC and under Section 109 r/w. Section 13(2) r/w 13(1)(c)&(d) of Prevention of Corruption Act and for those offences the trial Court had taken cognizance as against 21 accused persons in Spl.C.C.No.2 of 1998. After the full fledged trial, the trial Court acquitted all the accused persons from all the charges by the judgment dated 22.04.2004.



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15. The prosecution filed an appeal as against the order of acquittal before this Court in CrI.A.No.1034 of 2004 and this Court by an order dated 21.08.2008, dismissed the appeal and confirmed the acquittal order passed by the trial Court. The prosecution did not file any appeal before the Hon'ble Supreme Court of India, and the order of acquittal become final as against all the accused persons including the petitioners herein.

16. Thereafter, the petitioners were served with charge memo consisting two charges as follows :-

For petitioner in W.P.No.9818 of 2013:-

“Charge No.1 :- When he was working as Special Officer, Kuppur foot wear producers co-operative society under the control of the Assistant Director, Khadi and Village Industries, Salem, the Government vide its G.O.(Ms). No.300, Social Welfare and Nutritious Meal Programme Department, dated 28.10.1993, issued orders to supply 50,000 chappals and 50% of advance amount Rs.8,87,500/- was paid to the society during 1993-94 and no chappals were supplied. Thus as Special Officer of the society he



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violated the Government order and did not produce the chappals properly for the above amount as per the agreement made with the concerned department and made loss to the Government to the tune of Rs. 8,87,500/-.

Charge No.2 :- That he violated the Conduct Rules and failed to discharge his official duties.”

For the petitioner in W.P.No.7688 of 2014 :-

“Charge No.1:- That while he was working as Special officer of Trichy Leather Tannery workers Industrial Co-operative Society, under the control of Assistant Director (K&VI), TRICHY, the Government paid Rs.8,87,500 to the society as 50% advance for 50,000 pair of chapels under the scheme "Free distribution of chapels to school children for 1993-94" as per G.O.(Ms) No.300, Social Welfare and Nutrition Dept., dated 28.10.1993, out of which he has not distributed any chapels and thereby caused loss Rs.8,87,500 to the Government.

Charge No.2:- That he failed to discharge my duty properly and acted against the Tamil Nadu Government Servants Conduct Rules.”



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For the petitioner in W.P.No.525 of 2016 :-

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“குற்றச்சாட்டு எண்-1-

இவர் காஞ்சீபுரம் (கதர் கிராமத் தொழில்கள்) உதவி இயக்குநராக பணியாற்றிய போது 1993-94ம் ஆண்டு பள்ளி சிறார்களுக்கு இலவச காலணி வழங்கும் திட்டத்தின் கீழ் அரசு ஆணை எண் 300 சமீக நலம் மற்றும் சத்துணவு திட்டத்துறை, நாள் 28.10.93 ன் வழி முடிச்தூர் தோல்தொழிற் கூட்டுறவு சங்கம் மற்றும் வாரிய தலைமைச் செயல் அலுவலர் அவர்களின் செயல்முறை ஆணை ந.க.எண். 90511/93/வி2(2) நாள் 12.1.94ன் படி அனுமதிக்கப்பட்ட காட்டாங்குளத்தூர் பல்நோக்கு கூட்டுறவு சங்கத்திற்கு (தலா 75,000) இணைகள்) 1,50,000 இணை காலணிகள் விநியோகம் செய்திட தொகை ரூ.28,82,500/- 50% முன்பணமாக வழங்கப்பட்ட வகையில் 87,429 காலணிகள் மட்டும் விநியோகம் செய்யப்பட்டு 82,571 காலணிகள் விநியோகம் செய்யப்படாமல் நிலுவை உள்ளது. இவ்வாறு முன்பணம் பெறப்பட்டு காலணிகளை விநியோகம் செய்யாமல் அரசாணைக்கு புறம்பாக சங்கம் செயல்பட்டதையும், மாவட்ட பதிவாளர் என்ற வகையில் சங்கத்திற்கு வங்கியிலிருந்து நிதி பெற அனுமதித்த வகையில் சங்கம் முறையாக விநியோகத்தை செய்யாததால் அரசுக்கு ரூ.11,10,635.25 நிதி இழப்பு ஏற்படக் காரணமாக இருந்தது.



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குற்றச்சாட்டு எண்-2

வாரியப் பணிவிதி 13ன் கீழ் தேர்வு செய்யப்பட்ட "பி" பரிவு பதவி வகித்த இவர் தனது பணியினை முறையாக செய்யாமலும் அரசு பணியாளர் நன்னடத்தை விதிகளுக்கு புறம்பாகவும் செயல்பட்டு கணிசமான நிதியிழப்பு ஏற்படுத்திட காரணமாக இருந்தது."

For the petitioner in W.P.No.329 of 2014 :-

“குற்றச்சாட்டு எண்-1-

இவர் கரூர் (கதர் கிராமத் தொழில்கள்) உதவி இயக்குநரின் கட்டுப்பாட்டில் உள்ள சேவாப்பூர் தோல் தொழிலாளர் கூட்டுறவு சங்கத்தில் தனி அலுவலராக பணியாற்றிய போது 1993-94ம் ஆண்டு பள்ளி சிறார்களுக்கு இலவச காலணி வழங்கும் திட்டத்தின் கீழ் அரசு ஆணை எண் 300 சமீக நலம் மற்றும் சத்துணவு திட்டத்துறை, நாள் 28.10.93ன் வழி மேற்படி சங்கத்திற்கு 50,000 காலணிகள் விநியோகம் செய்திட தொகை ரூ.8,87,500/- 50% முன்பணமாக வழங்கப்பட்ட வகையில் 25,040 இணை காலணிகள் விநியோகம் செய்யப்பட்டு 24,960 இணை காலணிகள் விநியோகம் செய்யப்படாமல் நிலுவையாக உள்ளது. சங்க தனி அலுவலரான இவர் மேற்படி தொகைக்கான காலணிகளை முறையாக தயாரித்து சம்மந்தப்பட்ட துறைக்கு



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ஒப்பந்தப்படி விநியோகம் செய்யாததுடன்
அரசாணைக்கு புறம்பாகவும் செயல்பட்டதால்
அரசுக்கு ரூ.4,43,040/- நிதி இழப்பு
ஏற்படுத்தியுள்ளார்.

குற்றச்சாட்டு எண்-2

இவர் தனது பணியினை முறையாக
செய்யாமலும் அரசு பணியாளர் நன்னடத்தை
விதிகளுக்கு புறம்பாகவும் செயல்பட்டது."

17. In pursuant to the charge sheet laid in Crime No.12/AC/95-MCII/D.V.A.C., and on the very same set of allegations, the petitioners were served with charge memo. The crux of the charge is that the advance amount should be sanctioned and paid in installment after confirming whether the production for the amount already sanctioned was properly completed. However, the petitioners had miserably failed to watch the production and supply of chapels properly, which was the main reason for the loss to the government. Instead of releasing huge amount of advance in one lumpsum, they failed to release it gradually after reviewing the performance on the production and supply of chapels. Therefore, they violated the conduct and failed to discharge their official duty.



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18. On receipt of the charge memo, the petitioners submitted their explanations and without satisfying the same, domestic enquiry was ordered. In the domestic enquiry, the enquiry officer concluded that both charges were proved as against the delinquent officers and based on the enquiry report, the first respondent imposed punishment of compulsory retirement and also ordered to recover of loss caused to the government from their respective death cum retirement gratuity benefits.

19. On perusal of verdict of the criminal Court revealed that there was no evidence in support of the prosecution. As per the charge, one Balasubramanian @ Avinasi Balu failed to supply of chapels as per the order. He was examined in support of the case of the prosecution as P.W.2. After placing the orders for production of chapels, P.W.2 was paid with the advance amount. Admittedly, he was one of the members of the society. No conspiracy was proved from the evidence of P.W.2. There is no evidence to show that the amount was swindled to their own use or dishonestly used or disposed of the same in violation of any direction or law or any legal contract or wilfully suffered any other



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person to do the same. Further, he deposed that he supplied the entire quota of chapels as per the orders placed to him. Therefore, there is no pecuniary loss to the government and also there is no pecuniary advantage to the petitioners. Therefore, the entire charge itself are not proved, since the entire advance amount were distributed in favour of P.W.2 and accordingly, he had also supplied the chapels as per the order.

20. Even then, for the very same set of allegations that too after the findings of the criminal Court, the petitioners were served with charge memo for the very same charges. Without satisfying the explanation submitted by the petitioners, the enquiry was conducted and the enquiry officer concluded both the charges were proved, without even considering the findings of the criminal Court, except the petitioner in W.P. 525 of 2016 viz., A.Sethuraman. Though the enquiry officer held that the charges were not proved as against the petitioner in W.P.No.525 of 2016, the second respondent served show cause notice to all the petitioners. On receipt of the same, the petitioner in W.P.No.525 of 2016, submitted his detailed explanation and the first respondent imposed punishment of compulsory retirement to all the petitioners and



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also ordered for recovery. In fact, the enquiry officer concluded that the charges were not proved against the petitioner in W.P.No.525 of 2016 and even then he was imposed with punishment of compulsory retirement and order of recovery.

21. Admittedly, the petitioners were served with charge memo after the period of 11 years that too after the findings of the criminal Court. In fact, the order of acquittal was also confirmed by this Court in CrI.A.No.1034 of 2004 by an order dated 21.08.2008, while pending enquiry. The disciplinary authority failed to explain the huge delay in serving the charge memo to the petitioners. They were placed under suspension till the final order passed by the first respondent.

22. It is also pertinent to note that the enquiry officer concluded the enquiry and submitted his report in the year 2008. Whereas, the first respondent passed the final order in the year 2013-14. There is absolutely no explanation by the first respondent for the huge delay in passing the final order. In this regard, the Hon'ble Supreme Court of India and this Court in numerous decision held that inordinate delay in initiation or



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completion of disciplinary proceedings by itself would cause grave prejudice to the rights of the government employees and interfered with disciplinary proceedings on that ground alone.

23. Further, the alleged occurrence had taken place in the year 1993-94. Whereas the charge memos were served on the petitioners only on 04.08.2005. The final order was passed only in the year 2013 by the first respondent, though the enquiry officer submitted his report in the year 2008. It is not the case of the respondents that they were not aware of the illegality committed by the petitioners, as if they came to know only in the year 2005. For the very same set of charges, the Vigilance and Anti Corruption Department had registered the criminal case against the petitioners and others and they were tried by the trial Court in Spl.C.C.No.2 of 1998 on the file of the learned Special Judge -I cum X Additional Sessions Judge, Chennai. However, there is no impediment for the disciplinary authority to proceed with the departmental proceedings, though the criminal Court proceeded with trial for the various offences under the IPC and Prevention of Corruption Act. There is no satisfactory explanation for the inordinate delay in issuing charge memo.



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24. Further the Hon'ble Supreme Court of India in the judgment reported in **2005 (6) SCC 636** in the case of ***P.V.Mahadevan Vs. MD, T.N. Housing Board*** held that the disciplinary proceedings should be allowed to take its course as per relevant rules; but then, delay defeats justice. Delay causes prejudice to the charged officers unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings. Further held that the suffering of the Officer due to the protracted disciplinary proceeding would be much more than the punishment. Therefore, the long delay had vitiated the disciplinary proceedings.

25. Further in the case of ***State of Punjab and others Vs. Chaman Lal Goyal***, reported in **1995 (2) SCC 570**, the Hon'ble Supreme Court held that the delayed initiation of proceedings is bound to give room for allegations of bias, mala fides and misuse of power. If the delay is too long and is unexplained, the court may well interfere and quash the charges. Further held that the proceedings after a long period would result in great prejudice and amount to violation of the principles of natural justice. If there is unnecessary, unexplained and unjustifiable



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long delay in initiating departmental proceedings, it would result in causing great prejudice to the delinquents.

26. In the case on hand as afore said, the occurrence was taken place in the year 1993-94 and the petitioners were served with charge memos in the year 2005 namely after the period of 11 years. In fact, for the very same set of charges, they were prosecuted under the IPC and Prevention of Corruption Act. These charges did not require any detailed investigation, since already the Vigilance and Anti Corruption Department had enquired thoroughly and filed final report for the very same set of allegations. The criminal Court finds that the charges itself baseless and acquitted them from all the charges. Even then, the disciplinary authority served the charge memos to the petitioners. Therefore, the entire disciplinary proceedings is vitiated and the impugned order of punishment cannot be sustained as against the petitioners.

27. Further the departmental enquiry and the prosecution are different and distinct aspects. The criminal prosecution is launched for an offence in violation of a duty, the offender owes to the society or for



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breach of which law has provided that the offender shall make satisfaction to the public. Therefore, the crime is an act of commission in violation of law or of omission of public duty. Whereas the departmental enquiry is to maintain discipline in service and efficiency of public service. It would therefore be expedient that the disciplinary proceedings are conducted and completed as expeditiously as possible.

28. That apart, there would be no bar to proceed simultaneously with departmental enquiry and the trial of a criminal case, unless the charge is grave in nature involving complicated questions or fact of law. Therefore, there is no impediment for the respondents to proceed with the disciplinary proceedings as against the petitioners immediately after registration of criminal case. As stated above, for the very same set of charges, the disciplinary authority served charge memo to the petitioners as that of criminal offences. Hence the huge delay of 11 years in serving the charge memo vitiated the entire disciplinary proceedings.

29. That apart, the criminal trial was ended in acquittal as against the petitioners. Though both are different proceedings, for the



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very same set of charges, the enquiry officer after examining the very same witnesses, found that both the charges were proved as against the delinquents. P.W.2, who was placed order for supply of chapels, categorically deposed before the criminal Court that he supplied the entire orders placed by the petitioners. The order of acquittal was also challenged before this Court in Crl.A.No.1034 of 2004 and this Court by the judgment dated 21.08.2008, observed that the prosecution has not proved the charges framed against the petitioners. It has not let in any acceptable evidence to prove either the charge of criminal conspiracy or criminal breach of trust, but solely relies upon P.W.2 and P.W.3, whose evidence are not trustworthy and their confessional statements were not made voluntarily and they were rightly rejected by the trial Court.

30. Further the disciplinary authority viz., the first respondent herein passed the impugned order thereby imposed punishment of compulsory retirement and order of recovery. On perusal of the impugned order revealed that it is cryptic and non speaking order. After recording the findings of the enquiry officer, it imposed punishment of compulsory retirement. It is relevant to extract the conclusion part of the



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final order as follows :-

For the petitioner in W.P.No.7688 of 2014 :-

“3. திரு.டி.கணேசன், கிராமத் தொழிற் கூட்டுறவு மேற்பார்வையாளர்/கண்காணிப்பாளர் (தற்காலிக பணிநீக்கம்) மீது சுமத்தப்பட்ட குற்றச்சாட்டுகளை அவரது விளக்கம், விசாரணை அலுவலரது அறிக்கை, அதன் மீது அவரது கூடுதல் விளக்கம் ஆகியவற்றை அரசு அசல் ஆவணங்களுடன் ஆய்வு செய்து தனியார் மீது சுமத்தப்பட்ட இரண்டு குற்றச்சாட்டுகளும் நிரூபணமானதாக முடிவெடுத்து நிரூபணமான குற்றச்சாட்டுகளுக்கு தண்டனையாக அவருக்கு கட்டாய ஓய்வு என்ற தண்டனை அளித்தும், இந்நேர்வில் நிதியிழப்பு ஏற்பட்டுள்ளதால், அதனை அவருக்கு வழங்க தகுதியாகவுள்ள இறப்பு ஓய்வு பணிக்கொடையிலிருந்து (DCRG) முற்றிலுமாக வசூலிக்கப்பட வேண்டும் என்று அரசு ஆணையிடுகிறது”

For the petitioner in W.P.No.9818 of 2013:-

“6. திரு.கே.கருப்பாபிள்ளை, முன்னாள் உதவி இயக்குநர் (தற்காலிக பணிநீக்கம்), மீது சுமத்தப்பட்ட குற்றச்சாட்டுகள் அவரது விளக்கம், விசாரணை அலுவலரின் அறிக்கை, குற்றஞ்சாட்டப்பட்டவரது மேல் விளக்கம் ஆகியவை ஆய்வு செய்யப்பட்டது. இவர் முழுப்பணத்தையும் முன்பணமாக வழங்கியது



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தவறு. தவணை முறையில் உற்பத்திக்கு ஏற்ற வகையில் பணம் அளிக்க வேண்டும் என்ற குறைந்தபட்ச முன்னெச்சரிக்கை நடவடிக்கையையும் எடுக்கவில்லை. தவறு இவரிடமிருந்துதான் தொடங்கியிருக்கிறது. தற்போது பிறர்தான் பொறுப்பு என்கிற வாதம் ஏற்படையதன்று. இவர் மீது சுமத்தப்பட்ட குற்றச்சாட்டுகள் நடைபெற்ற விசாரணையில் நிரூபணமாகியுள்ளன. திரு.கே.கருப்பாபிள்ளை, உதவி இயக்குநர் மீது சுமத்தப்பட்ட குற்றச்சாட்டுக்கள் நிரூபணமாவதால், நிரூபணமான குற்றச்சாட்டுகளுக்கு தண்டனையாக கட்டாய ஓய்வு வழங்கலாம் என்றும் இவரால் வாரியத்திற்கு ரூ.8,87,500/- நிதியிழப்பு ஏற்பட்டுள்ளதால் இவருக்கு வழங்கப்பட உள்ள இறப்பு ஓய்வு பணிக்கொடையிலிருந்து முற்றிலுமாக வசூலிக்கலாம் என்றும் அரசு முடிவு செய்து அவ்வாறே ஆணையிடுகிறது."

For the petitioner in W.P.No.329 of 2014 :-

"3. திரு.ஆர்.திருநாவுக்கரசு, மாவட்ட குடிசைத் தொழில் ஆய்வாளர் நிலை-2/தனி அலுவலர் (தற்காலிக பணிநீக்கம்) மீது சுமத்தப்பட்ட குற்றச்சாட்டுகளை அவரது விளக்கம், விசாரணை அலுவலரது அறிக்கை, அதன் மீது அவரது கூடுதல் விளக்கம் ஆகியவற்றை அரசு அசல் ஆவணங்களுடன் ஆய்வு செய்து தனியார் மீது சுமத்தப்பட்ட இரண்டு குற்றச்சாட்டுகளும்



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நிருபணமானதாக முடிவெடுத்து நிருபணமான குற்றச்சாட்டுகளுக்கு தண்டனையாக அவருக்கு கட்டாய ஓய்வு என்ற தண்டனை அளித்தும், இந்நேர்வில் நிதியிழப்பு ஏற்பட்டுள்ளதால், அதனை அவருக்கு வழங்க தகுதியாகவுள்ள இறப்பு ஓய்வு பணிக்கொடையிலிருந்து (DCRG) முற்றிலுமாக வசூலிக்கப்பட வேண்டும் என்று அரசு ஆணையிடுகிறது"

For the petitioner in W.P.No.525 of 2016 :-

"5. திரு.ஆ.சேதுராமன், இணை இயக்குநர் (தற்காலிக பணி நீக்கம்)-இன் மீது சுமத்தப்பட்ட இரண்டு குற்றச்சாட்டுகள் தனியாரின் தன்னிலை விளக்கம், விசாரணை அலுவலரின் கண்டறிதல்கள், விசாரணை அலுவலரின் கண்டறிதல்கள் மீது பெறப்பட்ட தனியாரின் மேல் விளக்கம் ஆகியவற்றை அரசு உரிய ஆவணங்களுடன் ஆய்வு செய்தது. ஆய்வுக்குப்பின், தனியார் மீது சுமத்தப்பட்ட இரண்டு குற்றச்சாட்டுகளும் நிருபணமானதாக கருதி நிருபணமான குற்றச்சாட்டுகளுக்கு தண்டனையாக அவருக்கு கட்டாய ஓய்வு (Compulsory Retirement) எனும் தண்டனையை வழங்கலாம் என முடிவு செய்து அவ்வாறே அரசு ஆணையிடுகிறது. இந்நேர்வில் ஏற்பட்டுள்ள நிதியிழப்பினை தனியாருக்கு வழங்கப்பட வேண்டிய இறப்பு ஓய்வு பணிக்கொடையிலிருந்து (DCRG) முற்றிலுமாக



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வசூலிக்கப்பட வேண்டும் என்றும் அரசு
ஆணையிடுகிறது"

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It is also revealed that the first respondent passed the impugned order without application of mind. The first respondent failed to discuss about the charges and explanation submitted by the petitioners. It should contained contexts, contentions, considerations and not merely conclusions without any reasons that led to the conclusions. Thus it is clear that the disciplinary authority failed to apply its mind.

31. The order of punishment must contained some reasons, at least in brief, so that any one can know whether the disciplinary authority has applied its mind while passing the order of punishment. It is an essential requirement of the rule of law that some reasons must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation. Therefore, the impugned order suffers on the ground of non application of mind and vice of non speaking order. It does not set out any reason but would only contain the conclusion. There is a distinction between the conclusions and reasons, what is set out in the impugned order is merely the conclusion and there are no reasons set out in support of the conclusion that has been arrived at. It is true that strict rules of



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evidence and procedure are not applicable to the department proceedings.

However, the only requirement of law is that allegation against delinquent must be established by such evidence acting upon which a reasonable person action reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. Therefore, it is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental proceedings. Therefore, on those ground also the order of punishment viz., the impugned orders passed by the first respondent vitiated and liable to be quashed.

32. In fact, the first respondent imposed punishment of compulsory retirement to the petitioner in W.P.No.525 of 2016, though the enquiry officer held that all the charges were not proved as against him. The first respondent mechanically recorded the charges and all the findings of the enquiry officer and straight away imposed the punishment of compulsory retirement. When the disciplinary authority differs from the enquiry report, the delinquent must be given opportunity. But the delinquent viz., the petitioner in W.P.No.525 of 2016 was not given any



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opportunity before passing the final order.

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33. In view of the above discussion, all the impugned order passed by the first respondent are quashed. The first and second respondents are directed to permit the petitioners to retire from service with effect from the date of their superannuation with all consequential monitory and service benefits, within a period of twelve weeks from the date of receipt of a copy of this Order. It is also made clear that the first and second respondent shall treat the period of suspension of the petitioners as service, as duty for all purposes.

34. Accordingly, all the Writ Petitions are allowed. Consequently, connected miscellaneous petitions are also closed. There shall be no order as to cost.

15.09.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts



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To

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1. The Secretary to the Government,
State of Tamil Nadu,
Handloom, Handicrafts, Textiles
and Khadi Department,
Fort St. George,
Chennai – 600 009.
2. The Chief Executive Officer,
Tamil Nadu Khadi & Village
Industries Board,
Kuralagam,
Chennai – 108
3. The Chief Executive Officer,
Tamil Nadu Khadi Village
Industries Board,
Kuralagam,
Chennai – 108.
4. The Enquiry Officer/
General Manager,
Central Office,
Tamil Nadu Khadi Village
Industries Board,
Kuralagam,
Chennai – 108.
5. The Assistant Director,
Tamil Nadu Khadi Village
Industries,
Karur.
6. The Assistant Director,
Khadi & Village Industries,
Trichy – 620 001.



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G.K.ILANTHIRAIYAN. J.

rts

W.P.Nos.9818 of 2013, 329
& 7688 of 2014 and 525 of 2016
W.M.P.No.31578 of 2017,
M.P.No.1 of 2014 and
W.M.P.No.359 of 2016

15.09.2023