



W.P.(MD).Nos.2709 of 2018 and 3400 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.02.2023

DELIVERED ON : 09.05.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.2709 of 2018 and 3400 of 2018

and

W.M.P.(MD).Nos.2895 and 3518 of 2018

W.P.(MD).No.2709 of 2018:

A.Karunanithi

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented through,
The Secretary,
Department of Industries,
St.George Fort,
Chennai – 9.
- 2.The Commissioner of Sugar Mills/
The Director of Sugar,
Tamil Nadu Sugar Corporation Limited,
State of Tamil Nadu,
696, Anna Salai,
Nandhanam, Chennai.
- 3.The Aringar Anna Sugar Mill
Unit of Tamil Nadu Sugar Corporation Limited,
Kurungulam – 613 302,
Thanjavur District,
Represented by the Chief Executive.



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4.Mr.K.Jeyam,
Enquiry Officer/Domestic Enquiry Officer,
Managing Director,
Amboor Co-operative Sugar Mills,
Vadapudhupet, Amboor,
Vellore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondents pursuant to the termination order issued by the third respondent in செழுந.எண்.பஅ/923/2016/195 dated 18.11.2017 and quash the same and consequently direct the third respondent to reinstate the petitioner in his original employment with all the attendant benefits.

W.P.(MD).No.3400 of 2018:

P.Pandian

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented through,
The Secretary,
Department of Industries,
St.George Fort,
Chennai – 9.
- 2.The Commissioner of Sugar Mills/
The Director of Sugar,
Tamil Nadu Sugar Corporation Limited,
State of Tamil Nadu,
696, Anna Salai,
Nandhanam,
Chennai.



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3.The Aringar Anna Sugar Mill
Unit of Tamil Nadu Sugar Corporation Limited,
Kurungulam – 613 302,
Thanjavur District,
Represented by the Chief Executive.

4.Mr.K.Jeyam,
Enquiry Officer/Domestic Enquiry Officer,
Managing Director,
Amboor Co-operative Sugar Mills,
Vadapudhupet, Amboor,
Vellore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondents pursuant to the termination order issued by the third respondent in செரு.ந.எண்.பஅ/754/2016/115 dated 18.11.2017 and quash the same and consequently direct the third respondent to reinstate the petitioner in his original employment with all the attendant benefits.

(In both Writ Petitions):

For Petitioners : M/s.S.Devasena

For R-1 and R-2 : Mr.N.Muthu Vijayan,
Special Government Pleader.

For R-3 : Mr.K.Saravanan

For R-4 : Mr.S.Saji Bino



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COMMON ORDER

The Writ Petition in W.P.(MD).No.2709 of 2018 is filed to quash the impugned punishment order dated 18.11.2017 with a consequential direction to reinstate the petitioner in his original employment with all attendant benefits.

2. The petitioner was qualified with B.Sc., Agriculture degree and was appointed in National Co-operative Sugar Mills as Cane Officer on 01.08.1988. Thereafter, transferred to the first respondent Mill on 16.06.1997. Then on 20.07.2000, again he was transferred to NPKRR Cooperative Sugar Mills and worked there till 21.09.2005. Again, transferred to the third respondent Mill from 22.09.2005 and was working till 12.11.2015. The petitioner is a Grade 'B' Officer as per G.O.Ms.No.68 Industries (MIC.2) 2011 dated 01.03.2011 and the said G.O. is published in Tamil Nadu Gazette Notification on 26.10.2011.

3. In respect of revival of common cadre system for the officers of the Cooperative and Public Sector Sugar Mills and as per the above said G.O., the Commissioner of Sugar Mills will be the “Common Cadre Authority” for 'A' and 'B' cadre officers. As per the rules and regulations of Tamil Nadu Sugar



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Corporation Limited, the respondent sugar mill is governed by the Board of Directors nominated by the State Government.

4. In the year 2015, some irregularities were found in the Mill, where it is alleged that some Mill employees and Sugarcane farmers were involved in the scam. Based on the complaints and news items published in the Daily Magazines, the respondents have initiated action against the persons involved in the scam. The petitioner and 12 other employees were suspended on 12.11.2015 and a charge memo, dated 16.04.2016 was issued after a delay of 5 months. On receipt of the charge sheet, the petitioner submitted a representation to the third respondent requesting to provide the relevant documents for submitting explanation to the charge memo. The respondents did not serve the copies but directed the petitioner to visit the Mill premises and inspect the records and take notes of it and time is granted only for two days. Thereafter, the petitioner submitted his explanation. The petitioner was hoping that on receipt of explanation, the respondents would drop the proceedings. Hence, he did not challenge the charge memo and the suspension order. But the respondents appointed the fourth respondent as an enquiry officer. The fourth respondent in a summary manner, conducted an enquiry and submitted a report without referring



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any proper documents and without examining any witness. Based on the enquiry officer's report, the petitioner was terminated from service on 18.11.2017. Aggrieved over the same, the petitioner preferred an Appeal before the second respondent on 14.12.2017. But till date, no enquiry was conducted by any officials.

5. The contention of the petitioner is that the Sugar Mill accounts have been audited every year by the reputed auditors and annual report was published every year by the TASCO (Tamil Nadu Sugar Mills Corporation Limited). In the said audit report, no loss was reported. The audit report has not found any irregularities for the year 2014-2015 or before. The petitioner was terminated from service without any grounds. The allegations are baseless, vague allegations without any evidence. Hence, the petitioner has challenged the same before this Court.

6. The Writ Petition in W.P.(MD)No.3400 of 2018 is filed to quash the impugned punishment order dated 18.11.2017 with a consequential direction to reinstate the petitioner in his original employment with all the attendant benefits.

The petitioner was qualified with B.Sc., Agriculture Degree and was appointed as



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Cane Officer in Arignar Anna Sugar Mills on 12.12.1988 and was working there till 14.11.2015. The petitioner is a Grade 'B' officer. As per G.O.Ms.No.68/2011 dated 01.03.2011, the appropriate authority for Grade 'A' and Grade 'B' officers is the Commissioner of Sugar Mills. Based on irregularities found in the year 2015, the petitioner was suspended on 14.11.2015 and a charge sheet dated 16.04.2016 was issued with a delay of 5 months. In the meanwhile, an F.I.R was registered in Crime No.39 of 2015 against the petitioner and several other persons. After receipt of the charge memo the petitioner requested the respondents for issuance of relevant documents. But the respondents directed the petitioner to appear in person to the Mill premises and take notes of it and the time granted is only for two days. Based on the notes, the petitioner submitted an explanation with fond hope that the petitioner would be discharged from the charges. But the third respondent had appointed the fourth respondent as an enquiry officer. The enquiry officer did not conduct a proper enquiry. A summary enquiry was conducted without verifying any records, evidence and without examining any witness. Based on the report, the petitioner was terminated on 18.11.2017. The petitioner preferred an Appeal on 18.12.2017, but till date no enquiry was conducted by any officials. The Sugar Mills are audited every year by the reputed auditors. The annual report published every year had not stated any loss incurred



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by the Sugar Mills. Especially, no irregularities were spotted in those reports for the year 2010-2011 or before. Hence, the petitioner has challenged the termination order by way of filing the Writ Petition.

7. When the Writ Petitions were taken up for final hearing, the Writ Petitions were allowed vide order dated 04.06.2018. Aggrieved over, the respondents had preferred Writ Appeals in W.A.(MD).Nos.1143 and 1144 of 2018 and the Hon'ble Division Bench vide order dated 28.08.2018 had allowed the Writ Appeals and remitted the case back to the learned Single Judge with a direction to decide the case on merits as well. Hence, the case is before this Court.

8. The respondents have filed written arguments stating that during the month of October 2015 and November 2015, various Sugar Cane Ryots Associations submitted representations to the District Collector of Thanjavur and Pudukottai and also to the Commissioner of Sugar Mills alleging that serious irregularities were committed in the supply of sugarcane, thereby causing financial loss to the Sugar Mills. The Sugar Cane ryots are also shareholders of the Sugar Mills. The District Collector, Thanjavur directed the third respondent



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to verify the records and prima facie report dated 02.11.2015 was submitted. Thereafter, the District Collector constituted a committee consisting of 5 members to enquire, inspect the records and submit a report. The said Committee submitted a detailed report on 17.11.2015. It was found grave financial irregularities was committed in supply of sugarcane, thereby the third respondent Mill had incurred huge loss of Rs.2,34,39,008/-. Thereafter, the petitioners and other employees were placed under suspension and a detailed charge memo was issued alleging that without supply of sugarcane to the Mills, bogus entries had been entered in the Computer. The petitioner without verifying the necessary records especially the ground sheet etc. has committed irregularities by making entries in the computer. Further, the petitioners did not visit the fields wantonly and did not verify the final payment sheet issued by the Sugarcane Ryots. The petitioners with a malafide intention and connivance with other persons had caused heavy loss to the Mills, thereby the petitioners were failed in their legitimate official duties for their personal gain and acted contrary to the interests of the Government Sugar Mills. The petitioners have further colluded with other sugar cane growers and other employees of the Mills and have created false, fabricated and forged documents with an intention to misappropriate the funds of the sugar mills. The charge memo was issued against 30 employees who erred in



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their duties. Thereafter, an FIR was registered in Crime No.39 of 2015 against 30 employees including the petitioners and 85 sugarcane growers. Without prejudice to the criminal action, departmental proceedings were initiated. The petitioners had participated in the enquiry and they were given sufficient opportunity. Based on the enquiry report, the petitioners were terminated from service through the impugned order.

9. The contention of the respondents is that the petitioners come under 'B' category officers and the employees of the common cadre service. The plea of the petitioner that the Chief Executive of the Mill is not the competent authority is refuted by the respondents. The respondents further submitted under Section 75 of the Tamil Nadu Cooperative Societies Act, 1983 deals with the constitution of common cadre service. Under Section 75(3) of the Act deals with who is competent authority and it states that the Committee consisting of both officers of the Government and non-officials and the total strength of such committee shall not exceed five, one of the officer of the Government not below the rank of Joint Registrar shall be appointed as Chairman. The said Section only states the competent authority should not be below the rank of Joint Registrar. But it is not stating who should be the competent authority. The Rule 175 of Tamil Nadu



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Cooperative Societies Rules, 1988, states that the chapter XVIII relates to Rule 175 to 190 applicable only to the Cooperative Sugar Mills. The Rule 189 states the power and functions of the Managing Director of the Sugar Mills. Since nobody was designated to hold the post, then it is only the Managing Director who designated as officer control of the Sugar Mills as stated under Rule 189. Under Rule 189 (6)(a) of the Rules, 1988, the Managing Director is the competent authority for common cadre service. The Managing Director and Commissioner of Sugar are one and the same. The Managing Director is having administrative control over the Cooperative Sugar Mills. The Commissioner of Sugar Mills is having control over the Public Sector Sugar Mills. The G.O.Ms.No.866 dated 25.07.1984 and G.O.Ms.No.68 dated 01.03.2011 states that Commissioner of Sugar Mills is the competent authority and hence, the respondents submitted that the Commissioner of Sugar Mills is the competent authority. But under Rule 189(8) of the Rules, empowers the Managing Director to delegate all his powers particularly disciplinary control to any of his officers. Based on this Rule, the Commissioner of Sugar Mills has issued Circular in RC.No.3854/SL1/2016 dated 12.04.2016 and in Circular RC.No.23941/83/C1 dated 14.03.1985 and also in Circular RC.No.G1/25600/1999 dated 26.08.1999 provides the Chief Executive are empowered to initiate disciplinary action on the



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staff concerned as per the provisions contained in the special by-laws. Therefore, the contention of the respondent is that the Chief Executive Officer of Arignar Anna Sugar Mills is authorized to take disciplinary action.

10. The further contention of the respondents is that when the common cadre service was introduced in the year 1984, a circular dated 14.03.1985 was issued to make it clear that the third respondent Chief Executive is empowered to take disciplinary action. When the erstwhile common cadre system was revived in the year 1999, after the same was abolished in the year 1997, a fresh circular dated 26.08.1999 was issued wherein Chief Executive was appointed as disciplinary authority. Therefore, there is no confusion to decide the issue of who is the competent authority for the disciplinary control for the common cadre service. Therefore, the third respondent being the Chief Executive is empowered to take action and based on his powers, the petitioners were terminated. Therefore, the respondents prayed to dismiss the Writ Petitions.

11. Heard M/s.S.Devasena, the Learned Counsel appearing for the petitioner, Mr.N.Muthu Vijayan, the Learned Special Government Pleader appearing for 1st and 2nd respondents, Mr.K.Saravanan, the Learned Counsel



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appearing for the 3rd respondent and Mr.S.Saji Bino, the Learned Counsel appearing for the 4th respondent and perused the records.

12. The contention of the petitioner is that the Commissioner of Sugar is the competent authority but the respondent's contention is that the Chief Executive is the competent authority. In the present case the learned Single Judge has dealt with the issue of competent authority vide order dated 04.06.2018 wherein it has been held the Commissioner of Sugar is the competent authority and the Chief Executive is not empowered to take disciplinary action. Aggrieved over, the respondents had preferred Writ Appeals in W.A.(MD)Nos.1143 and 1144 of 2018 and the Hon'ble Division Bench vide order dated 28.08.2018 had allowed the Writ Appeals wherein it is held that the G.O.Ms.No.68 was issued only for appointment, promotion, inter se seniority and remitted the case back to the learned Single Judge with a direction to decide the case on merits as well. The contention of the respondent before the Hon'ble Division Bench is that through G.O.Ms.No.68 Common Cadre System was introduced which is meant for the service conditions, inter se seniority and promotion. Hence the said G.O. would not make the Aringar Anna Sugar Mill a Society registered under the Tamil Nadu Cooperative Societies Act, 1983 and consequently the employees would not



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become the Society employees. The net result would be section 75 of the Tamil Nadu Cooperative Societies Act 1983 cannot have any application. Accepting the said argument, the Hon'ble Division had allowed the writ appeal. The Hon'ble Division Bench has held that the G.O.Ms.No.68 was issued only to deal with the appointment, inter se seniority and promotion and to deal with this alone would not make the Aringar Anna Sugar Mills become a registered society.

13. The contention of the writ petitioners is that the respondents accept the applicability of the G.O.Ms.No.68 to the respondent Mill, but respondents only state that the Tamil Nadu Cooperative Societies Act 1983 is not applicable to the Mill, since the G.O.Ms.No.68 only speaks about service conditions like appointment, inter se seniority and promotion of common cadre system. But according to the petitioner the said Act, 1983 is applicable for disciplinary proceedings also, since the G.O.Ms.No.68 covers the service conditions like disciplinary proceeding as well. In short, the question that ought to be considered is whether the phrase “service conditions” includes disciplinary proceeding.



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14. To resolve this the G.O.Ms.No.68 and Section 75 of the Act ought to be scrutinized. The G.O.Ms.No.68 was passed to revive the Common Cadre System and the relevant portion of the said G.O. is extracted hereunder:

“In the Government Order first read above, orders were issued to for the creation of Common Cadre System for the officers working in the Co-operative and Public Sector Sugar Mills and the Director of Sugar was permitted to create a Common Cadre System for the second and third level officers working in the Co-operative and Public Sector Sugar Mills duly authorising him to frame necessary rules and regulations for appointment, transfer etc.

2. Subsequently during the year 1997, after reviewing the functioning of the common cadre system, Government felt that since each Co-op. Sugar Mills is a separate legal entity, the officers, staff and workers working in a sugar mill should be the employees of the particular Co-op. sugar Mills only and ordered the abolition of common cadre system in Co-op. Sugar Mills in Government order 2nd read above. Consequent on the above, the officers and employees who were covered under the above said system were de-caderised and positioned in the respective sugar mills permanently based upon their option and in public interest. Necessary guidelines were also issued by the Commissioner of Sugar prescribing the procedure to be adopted for filling up of the vacancies and the service conditions of the erstwhile Common Cadre employees. The mode of recruitment to the second and third level officer posts in the erstwhile Common Cadre System was specified as Direct Recruitment and a selection committee was also constituted for the said purpose.

3. Now, the Commissioner of Sugar has sent a proposal for the revival of Common Cadre System in the name of “Tamil Nadu Co-operative and Public Sector Sugar Mills Managerial Common Cadre System” in the Co-operative and Public Sector Sugar Mills for the effective functioning of the Sugar Sector, since the above system would go a long way in creating the ladder of promotion to the eligible in-house personnel from the entry level officers posts up to the level of Chief Officers in their particular field. He has also stated that, the proposed policy of recruitment and promotion would not only satisfy / fulfil the manpower requirement of the mills but would serve as a boon to the qualified personnel to get into the higher posts by offering new avenues for promotion. He has therefore requested the Government to approve the proposal and issue orders in this regard.



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The above G.O. is applicable to Co-operative and Public Sector Sugar Mills. The earlier G.O. has permitted the Director of Sugar to create a Common Cadre System and to frame necessary rules and regulations for appointment, transfer etc. Then the common cadre system was dispensed and each sugar mills was considered as separate legal entity. Then again the common cadre system was reviewed and the service conditions was formulated to accommodate for promotion. For this the G.O. has passed. Under the Heading “Annexure” the “Regulations for the Tamil Nadu Coop and Public Sugar Mills Managerial Officers Common Cadre System” was dealt with. The Cane Officers are classified as Cadre B. Thereafter it states that the Commissioner of Sugars will be the Cadre Controlling Authority.

The relevant portion is extracted hereunder:

All officers in category A & B category will come under the purview of Tamil Nadu Co-op. and Public Sector Sugar Mills Managerial Common Cadre System.

- (ii) All the officers in A and B grade are liable for transfer to any sugar mill, but they will not be as far as possible, posted in their native district.
- (iii) Confidential Reports for all officers in A and B category will be maintained by the Commissioner of Sugar, who will be the Cadre Controlling Authority for the A & B category officers.
- (iv) There will not be any change in the pay structure due to the above classification and redesignation of posts, if any.



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Thereafter the said G.O. states about the recruitment, pay etc. Then comes the crucial portion of the power and authority of the “Cadre Authority”, which is extracted hereunder:

5. Cadre Authority:

The Commissioner of Sugar will be the cadre authority and the cadre authority will decide the **recruitment, promotion and transfer of the officers**. The **confidential report** on the officers in A and B grade will be maintained in the office of the common cadre authority. While **directly recruiting** to the entry level officers posts, all the conditions prescribed by the Government with regard to age at the entry and retirement and age relaxation, communal rotation then and there ordered by the Government is applicable. In respect of promotion to the post in Grade-B there will not be any age limit for entry. For promotion as mentioned above a common seniority will be adopted by the cadre authority for all the above posts. If the date of joining of the two individuals are same, the date of acquiring the requisite qualifications will be taken into account for deciding the **seniority** in a particular feeder category. Once the Superintendents are promoted as Office Manager and the Accountants are promoted as Accounts Officer they will be coming under the purview of the Tamil Nadu Co-op. & Public Sector Sugar Mills Managerial Common Cadre System. **Service conditions stipulated in Special bylaw and Standing Orders will be applicable to Grade-C and D. The rules and regulations stipulated to TNCS Act and Rules are applicable to Grade A and B officers.**

When the G.O.Ms.No.68 specifically states that when the Cadre “C & D” is promoted to Cadre “B”, then the employee would come within the purview of Common Cadre service. And the G.O. further proceeds that the “Service Conditions” for C and D cadre is Special Bylaw and Standing Orders. **And the “Service Conditions” for A and B cadre is the rules and regulations stipulated to Tamil Nadu Cooperative Societies Act and Rules.** When the



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G.O.Ms.No.68 states the “service conditions” are applicable as stated in the Tamil Nadu Cooperative Societies Act and Rules, then the phrase “service conditions” ought to be analysed, especially whether it includes disciplinary proceedings. The section 75 of the Tamil Nadu Cooperative Societies Act would throw some light.

15. Section 73 is placed under the chapter VIII under the Heading “Paid Officers and Servants of Society”. The section 73 deals with the “Appointment of paid officers and servants of registered society and their conditions of service”. Section 74 “Recruitment Bureaus”. Section 75 deals with “Constitution of common cadre of service” and in this section deals with all service conditions including the disciplinary actions. Under 75(3) deals with suspension, disciplinary proceedings and punishment. 75(4)(a) deals with disciplinary proceedings and the provision is extracted hereunder:

“(4) (a) The registered society under which an employee borne on a common cadre of service is employed may request the competent authority to take disciplinary action on, or to transfer such employee, and if the competent authority fails to take action within a period of thirty days from the date of such request , the registered society may report the matter to the Registrar for taking such action as he may deem necessary”

The aforesaid provisions makes it abundantly clear that the “service conditions” means including disciplinary proceedings like suspension, enquiry,



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punishment etc. Therefore this Court is of the considered opinion that the G.O.Ms.No.68 is issued not only for qualification, appointment, reservation in appointment, inter se seniority, promotion, pay, but also disciplinary proceedings. The Hon'ble Division Bench has not taken into account the relevant portion of G.O.Ms.No.68 where it says **“The rules and regulations stipulated to TNCS Act and Rules are applicable to Grade A and B officers.”**. Therefore this Court is of the considered opinion that the G.O.Ms.No.68 states not only promotion etc. but also disciplinary proceedings.

16. Having held that the G.O.Ms.No.68 deals with disciplinary proceedings, now it has to be considered who is the authority to initiate disciplinary proceedings. 75(4)(a) deals with disciplinary proceedings and the provision states that “the registered society under which an employee borne on a common cadre of service is employed may request the competent authority to take disciplinary action on, or to transfer such employee”. In such circumstances the Chief Executive of Aringar Anna Sugar Mills ought to request the Cadre Authority i.e. Commissioner of Sugars to initiate disciplinary proceedings. In the present case the Chief Executive has initiated the proceedings and hence the disciplinary proceedings is without jurisdiction.



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17. The respondents has submitted written submissions, where it is submitted that the Commissioner of Sugars is the authority and the relevant portion of the submission is extracted hereunder:

“13.It is submitted that the Managing Director and the Commissioner of Sugars are one and same person. The Managing Director having administrative control over the Cooperative Sugar Mills. The Commissioner of Sugar is having administrative control over the Public Sectors Sugar Mills.

14. It is submitted that therefore the Commissioner of Sugar is the competent authority”

The respondents themselves accepts that the Commissioner of Sugar is the authority, but submits that the Commissioner of Sugar has delegated the power vide circulars. When the G.O. and the Act has declared that Commissioner of Sugar as Cadre Authority, then he has no power to delegate his powers, unless the Act provides for delegation of powers. Therefore the plea of delegated the power also cannot be sustained. For the aforesaid reasons this Court is of the considered opinion that the disciplinary proceedings was initiated without any jurisdiction and hence the impugned order is liable to be quashed.

18. The respondents have filed written arguments alleging that there was a

<https://www.mhc.in.gov.in/judis> huge scam and the investigation report states the loss to the Mill is to the tune of



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Rs.2,34,39,008/-. There were 30 officials and 85 Sugarcane growers involved in the scam. Hence along with the disciplinary proceedings the respondents have also preferred criminal complaint and it is registered as Crime No. 39 of 2015 and the petitioners are facing criminal case as well. But the petitioner has not disclosed the pendency of the criminal case and hence the petitioner has not approached this court with clean hands and prayed to dismiss the writ petition. On perusal of the affidavit filed by the writ petitioner in W.P.(MD)No.2709 of 2018 it is seen that the petitioner has not stated about the pendency of the criminal case in Crime No.39 of 2015. However, the petitioner in W.P.(MD)No.3400 of 2018 has specifically stated that the criminal case was registered and the same was pending. After hearing the rival submissions this Court is of the considered opinion, non-disclosure of pendency of the criminal case will not affect the other grounds raised in the Writ Petition. It has been repeatedly held that the criminal proceeding is different from disciplinary proceeding. As far as the criminal proceedings strict evidence is necessary, whereas in the disciplinary proceedings it is only preponderance of probability. Therefore, non-disclosure of criminal case by the petitioner in W.P.(MD)No.2709 of 2018 will not affect the challenge in the Writ Petition. Hence the plea of the respondents to dismiss this writ petition for non-disclosure of pendency of the criminal case is rejected.



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19. The contention of the petitioners in both the Writ Petitions is that the respondents have not served the relevant documents to the petitioners. Moreover, the enquiry officer has only conducted summary proceedings without marking any documents and without examining the witness. This allegation was not denied by the respondents by filing counter. The respondents have filed only written arguments where it is stated there is no violation of principles of natural justice. When the petitioner has specifically raised that there is violation of principles of natural justice, by specifically averring that the documents were not marked and witnesses were not examined, it is the bounded duty of the respondents to deny the same, but the respondents have not chosen to deny the same. In a similar case in W.P.(MD)No.15022 of 2016 this Court has held that the respondents failed to supply the relied upon documents in particular ground sheet, weighing bridge entry pass, weighing bridge weight entry ledgers etc., and the petitioner's travel allowance payment particulars etc. But the respondents subsequently have furnished the ground sheet but other documents were not furnished. Therefore, there is violation of principles of natural justice and the relevant portion is extracted hereunder:

“17. Without proper investigation the charge sheet was issued, moreover the charge sheet is bereft of any materials. The second respondent failed to supply

<https://www.mhc.tn.gov.in/judis>



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the relied upon documents in particular ground sheet, weighing bridge entry pass, weighing bridge weight entry ledgers etc., and the petitioner's travel allowance payment particulars etc. But the respondents subsequently have furnished the ground sheet but other documents were not furnished. The respondents failed to note the Sugar Mills accounts have been audited by Auditor every year. If at all any misappropriation committed in any year that year audit report would reveal the truth. The nature of work of Cane Officer in Sugar Mill is fully field oriented, they have to visit sugar cane fields and sugar cane growing farmers along with Cane Assistants daily and they have to popularize new variety of seeds to the farmers, expose the farmers to the intensive Agriculture Practices so as to get higher sugar cane yield. Arranging crop loans to the farmers from Co-operative and Nationalized banks. During sugar cane crushing season, issuing cutting orders through Cane Assistants, as per priority list, engage tractors for cane transport to the sugar cane growers. The petitioner is not involved in any activity as alleged in the charge sheet. Moreover, the charge sheet is not issued on the basis of any concrete documentary evidence.”

Also, in the present case the petitioners were working as Cane Officers and the relevant documents like weighing bridge entry pass, weighing bridge weight entry ledgers etc., and the petitioner's travel allowance payment particulars etc. are not supplied and hence this Court is of the considered opinion that there is violation of principles of natural justice.

20. The petitioners are working as Cane Officers. The allegations against the petitioners are that they have made wrong entries in the computer and thereby, colluded with the other erring officers to commit the misappropriation of funds to the Sugar Mills. The work allotment to the cane officers was elaborately dealt



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with by this Court in W.P.(MD)No.15022 of 2016 batch and relevant portion is extracted hereunder:

“15. As far as the allegations of misappropriation of Mills money and the entry in the computer is concerned, the petitioner has relied on the information provided under Right to Information Act. In the reply it is stated the control of computer is with the Head of the Department and nobody has accessed to the computer and nobody can open and access the computer without the permission from the Head of the Department. The operative portion of the Right to Information is extracted hereunder:

வ.எண்.	கோரியுள்ள விபரம்	ஆலையின் பதிலுரை
	அறிஞர் அண்ணா சர்க்கரை ஆலையில் நடப்பு 2015-16 ஆலை அரவைப் பருவத்தில் கரும்பு வெட்டு உத்தரவில் குறிக்கப்பட்டுள்ள மகதூல் மதிப்பீட்டை அதிகமான கரும்பு அதே வெட்டு உத்தரவு மூலம் ஆலை அரவைக்கு வரும் போது கரும்பு எடை போட்டு அரவைக்கு ஆலை உள்ளே எடுத்து அரைப்பதற்கு கம்ப்யூட்டர் லாக் உள்பட என்னென்ன விதிமுறைகள் மீன்பற்றப்பட்டு வருகிறது என்ற விபரம் கூறவும்.	அறிஞர் அண்ணா சர்க்கரை ஆலையில் நடப்பு 2015-16 ஆலை அரவைப் பருவத்தில் எடைத்தளத்திலுள்ள கணிப்பொறியில் மகதூல் மதிப்பீட்டை விட கூடுதலாக வரும் கரும்பை இறக்க இயலாத நிலையில் கம்ப்யூட்டர் லாக் செய்யப்பட்டுள்ளது. மேலும் கரும்பு வெட்டு உத்தரவில் குறிக்கப்பட்டுள்ள மகதூல் மதிப்பீட்டை விட கூடுதலாக கரும்பு அதே வெட்டு உத்தரவு மூலம் ஆலை அரவைக்கு வரும் போது கூடுதலாக வரும் மகதூல் மதிப்பீட்டை ஆலை அரவைக்கு எடுத்துக் கொள்ள சம்பந்தப்பட்ட பிரிவு கரும்பு உதவியாளர் சம்பந்தப்பட்ட வயலில் கூடுதலாக வரும் மகதூல் மதிப்பீட்டை ஆய்வுசெய்து கோட்ட கரும்பு அலுவலரும் மேற்படி வயலை ஆய்வுசெய்து மகதூல் மதிப்பீடு கூடுதலாக வரும் பதிவு கரும்பு வயலை அளந்து சரிபார்த்து மகதூல் மதிப்பீடு கூடுதலாக வரும்பட்சத்தில், கரும்பு அலுவலரின் பரிந்துரையின் அடிப்படையிலும், கரும்பு பெருக்கு அலுவலரின் பரிந்துரையின் அடிப்படையிலும் உண்மையாக இருக்கும் பட்சத்தில் தலைமை நிர்வாகி அவர்களின் உத்தரவு பெற்ற பிறகு கணிப்பொறி மேற்பார்வையாளர் மூலத்தான் எடைத்தளத்தில் உள்ள கணிப்பொறியில் மாற்றம் செய்து கூடுதலாக வரும் மகதூல் மதிப்பீடு ஆலை அரவைக்கு எடுத்துக் கொள்ளப்படுகிறது.



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On perusing this reply, it is stated that the computer would be locked and false entries are not possible. Moreover, it is stated if the excess sugarcane is received, then the Chief Executive's permission is necessary to unlock and make entries. In such circumstances the allegation that the petitioner had concealed the excess sugarcane and excess payment to sugarcane is baseless. Moreover, the petitioner is not assigned the work of making entries in the computer and he is no way in-charge of the computer. The work of a "Cane Officer" are that of a programming the work of an agriculture officers in department of agriculture and the work allotment order is produced before this Court and the relevant portion is extracted hereunder:

"1. Cane Officers: The cane officers are with basic qualification of B.Sc. (Agri). They are controlling one division office of the sugar mills. They are popularizing the cane varieties which are found new at research station level. They are responsible to follow the entire agronomical practices for cane crop advised by the universities and research stations. The adoptability of the variety, suitability of the tract, high sugar content varieties selection are done by these cane officers by following the intensive agriculture practices, they increases the cane yield. During cutting season, by engaging lorries for transport, maintain the priority of the registered farmers and to send the cane to the mills. **In a way they are programming the work of an agriculture officers in department of agriculture.**"

On perusing the work allotment order it is seen that the petitioner being a cane officer is a field officer and was not assigned the work of entry in the computer at all. The 1st charge against the petitioner states that the petitioner has made entries and also states the petitioner colluded to make entries. When the charge is against the work allotment, then the contention of the petitioner that the respondents are making the petitioner to face unnecessary allegations without duty assigned to the petitioner is right. Therefore, the petitioner is entitled to relief."



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The petitioners are not even allowed to make entries in the computer, the very allegation is irrelevant, incorrect and the very basis of the charge memo itself is erroneous. The Writ Petitioner in W.P.(MD)No.15022 of 2016 batch has also obtained reply under RTI how the entries should be made in the computer. In the reply, RTI officers have stated that without the knowledge of the Chief Executive, the entries cannot be made. The secret pincode is with the Chief Executive, unless he opened the computer with secret pincode, the computer cannot be opened. The probability of opening the computer and making false entries is not possible. Following the aforesaid order this Court is of the considered opinion that the work allotted to the petitioners are entirely different and the allegations in the charge memo is nothing to do with his work. When the charge is against the work allotment, then the contention of the petitioner that the respondents are making the petitioner to face unnecessary allegations without duty assigned to the petitioner is right. Therefore, the petitioner is entitled to relief.

21. The next contention of the petitioner is that the charges are vague without any specific allegations against the petitioner for which the petitioner ought to face the enquiry and the petitioner would be in a position to reply for the



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vague charges and hence, the petitioner claims that the petitioner should be protected from facing the vague enquiry. Admittedly on perusing the charges, the charges are vague, the charges only state the dereliction of duties, the petitioner has not discharged whole heartedly and with devotion etc. Therefore, this Court is of the considered opinion that the charges are vague and the petitioner is in advantageous position.

22. For the reasons stated above, this Court is inclined to quash the impugned orders and the impugned orders are quashed. As far as the petitioner in W.P.(MD).No.2709 of 2018 is concerned, the petitioner is still having service for approximately 3 more years. Hence, this Court directs the respondents to reinstate the petitioner in W.P.(MD).No.2709 of 2018 with continuity of service and with backwages. As far as the petitioner in W.P.(MD).No.3400 of 2018 is concerned, the petitioner has already attained superannuation, the respondents shall pay the terminal benefits by fixing the date of superannuation as the date of retirement and disburse the entire terminal benefits to the petitioner. However, the belated payment will not carry any interest except for the statutory interest granted under the provision of law. The order shall be implemented within a period of eight (8) weeks from the date of receipt of a copy of this order.



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23. In view of the above, the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.05.2023

Index : Yes / No
Internet : Yes
Nsr

To

- 1.The Secretary,
The State of Tamil Nadu,
Department of Industries,
St.George Fort,
Chennai – 9.
- 2.The Commissioner of Sugar Mills/
The Director of Sugar,
Tamil Nadu Sugar Corporation Limited,
State of Tamil Nadu,
696, Anna Salai,
Nandhanam,
Chennai.



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W.P.(MD).Nos.2709 of 2018 and 3400 of 2018

S.SRIMATHY, J

Nsr

Pre-delivery Order made in
W.P.(MD).Nos.2709 of 2018 and 3400 of 2018

09.05.2023