

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :28.01.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.1329 of 2015

S. Venkatachalapathy

...Petitioner

- Vs.-

1. The Board of Directors
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
2. The Managing Director
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
3. The Manager (Finance)
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
4. Mines Manager
Tamil Nadu Minerals Ltd.,
Sivagangai
Sivagangai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the second respondent herein culminating in Proc.No.3992/E5/2014-1, dated 23.12.2014 and to quash the same.

For Petitioner : Mr.M. Santhanaraman

For Respondents : Ms.A. Srijayanthi
Spl. G.P.

ORDER

The order dated 23 December 2014 on the file of the second respondent is challenged in this writ petition solely on the ground that no notice was issued before directing recovery.

2. While the petitioner was working as Project Officer in Tamil Nadu Minerals Limited, a charge memo was issued to him on 19 February 2002 alleging that he has shifted the granite blocks of TAMIN to private quarry and took unilateral decision to blast the blocks without following the instructions. The disciplinary authority imposed a punishment of stoppage of annual increment for a period of five years with cumulative effect. The said order was challenged before the Madurai Bench of this Court in W.P.(MD) No.3252 of 2010. The writ petition was allowed by this Court. While so, the second respondent issued the impugned order dated 23 December 2014 directing recovery of a sum of Rs.47,48,928/- from the salary of the petitioner in monthly instalments at the rate of Rs.18,800/- per month. The said order is challenged in this writ petition primarily on the ground that no notice was issued before passing such drastic order involving civil consequences.

3. The General Manager, Tamil Nadu Minerals limited filed a counter affidavit wherein it was indicated that the impugned recovery order was issued pursuant to the report submitted by the Accountant General. The counter affidavit does not contain any indication that notice was issued to the petitioner before passing the impugned order.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

5. The order impugned in this writ petition shows that the Accountant General in his audit report has pointed out that there was a revenue loss to the tune of Rs.132.97 lakhs due to pilferage of granite blocks in Thiruthangal quarry. The petitioner and other officers were found responsible for the loss. The second respondent taking into account the total financial loss apportioned the amount and the petitioner was directed to pay a sum of Rs.47,48,928/-. Neither the impugned order nor the counter affidavit indicates that notice was issued to the petitioner before directing recovery. In fact, the reference column of the impugned order also does not contain any indication that the petitioner was put on notice before directing recovery of a substantial amount from the salary. The petitioner is therefore justified in his contention that the impugned order is liable to be set aside on the ground of violation of the principles of natural justice.

6. In the result, the impugned order dated 23 December 2014 is set aside and the matter is remitted to the second respondent for

fresh consideration. It is open to the second respondent to issue notice to the petitioner and pass fresh orders on merits and as per law.

7. The writ petition is allowed to the extent indicated above. Consequently, the connected MP is closed. No costs.

Tr/

-s/d-
Assistant Registrar(J)
Dt:10/2/2015

True Copy

Sub-Assistant Registrar

To

1. The Board of Directors
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
2. The Managing Director
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
3. The Manager (Finance)
Tamil Nadu Minerals Limited
No.31, Kamarajar Salai
Chepauk
Chennai-600 005.
4. Mines Manager
Tamil Nadu Minerals Ltd.,
Sivagangai
Sivagangai District.

+ 1 cc to Mr.M.Santhanaraman, Advocate SR 4337

ak(co)
prk13/2

W.P.No.1329 of 2015