

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.A.No.363 of 2012

G.Ravindran .. Appellant

Versus

1. The Tamil Nadu Agro Industries Corporation Limited, Guindy Madras.
2. The Managing Director The Tamil Nadu Agro Industries Corporation Limited, Guindy Madras. .. Respondents

Prayer : Writ Appeal against the order of this Court dated 21.09.2011 passed in W.P.No.29056 of 2003, praying for issuance of Writ of Certiorarified Mandamus to Call for the records on the file of the 2nd respondent in 11239/P & A3/94 dated 6.1.03 & quash the same as illegal, incompetent, irregular & without jurisdiction & further direct the respondents to pay back wages on & from 30.3.95.

For Appellant : Mr.V.Raghavachari

For Respondents : Mr.C.Venkatesalu

JUDGMENT

(Judgment of the Court was delivered by Huluvadi G.Ramesh,J.,)

Heard the learned counsel for the appellant and the learned Standing Counsel representing the respondent-Corporation.

2. It appears in connection with the false claim made by the appellant, in respect of leave travel concession, he having

travelled in an ordinary class produced the first class claim train tickets and drawn the first class fare of Rs.3,012/-, disciplinary proceedings were initiated and the appellant was kept under suspension. In the meanwhile, ultimately after enquiry was concluded by the disciplinary authority, punishment had been imposed by the authority dismissing the appellant from service. It is seen that the order of dismissal was challenged by the appellant before the learned Single Judge, pending appeal before the Appellate Authority. Subsequently, the Appellate Authority also confirmed the said order of dismissal. It is seen that the learned Single Judge while dealing with the matter had dismissed the writ petition only on the ground that he has not challenged the order of the Appellate Authority. Further he filed amendment petition before this Court along with this writ appeal, while challenging the dismissal order of the learned Single Judge and the same was ordered.

3. The arguments of the learned counsel for the appellant is that the learned Single Judge without considering the order passed by the Appellate Authority has dismissed the writ petition on technical grounds. He would also submit that for the misconduct committed by the appellant, the punishment imposed by the Corporation in dismissing the appellant from service is disproportionate. At this stage, it is also submitted that the appellant having attained the age of superannuation, the question of his reinstatement also would not arise.

4. The learned Standing counsel appearing for the respondent-Corporation would submit that the Corporation is now under liquidation and winding up proceedings have already commenced.

5. Be that as it may. The fact remains that the punishment imposed was for the alleged misconduct committed by the appellant and it is matter of fact and the same cannot be gone into at this stage, as it could be interfered with only if there is any violation of natural justice or any illegality has crept in.

6. It is an admitted fact that the appellant was a Government servant and he was working with the respondent-Corporation as an Area Executive Engineer. However, the punishment imposed on the appellant is shocking and disproportionate having regard to the nature of the charges levelled against the appellant. In such circumstances, to meet the ends of justice, we are of the view that the order of dismissal should be replaced with one of compulsory retirement.

7. Accordingly, to put an end to this litigation, this writ appeal is allowed and the order of the learned Single Judge is

set aside. The punishment of dismissal from service is modified into one of compulsory retirement. We direct the respondent-Corporation to extend the benefit of compensation/benefits as are applicable to the similarly placed persons as that of the appellant. It is for the respondent-Corporation to determine the quantum of compensation and other benefits payable to the appellant having regard to the length of service he has put in as on the date of his compulsory retirement and disburse the same to the appellant within a period of three months from the date of receipt of a copy of this order.

8. Since it is submitted by the respondent-Corporation that the winding up process have been commenced, if it is not feasible for them to disburse the retirement benefits to the appellant, the same shall be settled within a reasonable time, after the winding up proceedings are over.

9. To the above extent, this writ appeal is allowed. No costs.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Tamil Nadu Agro Industries Corporation Limited, Guindy Madras.
2. The Managing Director  
The Tamil Nadu Agro Industries Corporation Limited, Guindy Madras.

+lcc to Mr.V.Raghavachari, Advocate Sr.22665

+lcc to Mr.C.Venkatesalu, Advocate sr.22641

W.A.No.363 of 2012

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srg 26/04/2016