

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35309 of 2016

S.Rajamanickam

... Petitioner

Vs.

- 1 The Managing Director
Tamil Nadu Civil Supplies Corporation
No.12, Thambusamy Road
Kilpauk, Chennai-10.
 - 2 The General Manager (Administration)
Tamil Nadu Civil Supplies Corporation
No.12, Tambusamy Road
Kilpauk, Chennai-10
 - 3 The Regional Manager
Tamil Nadu Civil Supplies Corporation
Regional Officer
Co-operative spinning Mill Compound
Ammappettai, Salem-14
- Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to consider the petitioner's representation dated 11.08.2016 following the proceedings in G.O. Ms. No.203 dated 30.10.2000.

For Petitioner : Mr.I.Paul Noble Devakumar
For Respondents : Mr.L.P.Shanmuga Sundaram
Spl. Govt. Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider his representation dated 11.8.2016 following the proceedings in G.O. Ms. No.203 dated 30.10.2000.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner joined service as a Packer on 23.1.1976 in the Tamil Nadu Civil Supplies Corporation, Salem. Later, he was promoted to the post of Bill Clerk in the year 1987 and further promoted to the post of Junior Assistant in the year 1988 and allotted to Salem Regional office. Ever since, he has been working as Junior Assistant in the said place.

(b) While so, the third respondent issued a charge memo dated 22.7.2010 alleging that the petitioner abused him in the presence of the employees of the corporation. Based upon the same, he was placed under suspension even before the issuance of charge memo on 23.6.2010. On receipt of the charge memo, the petitioner sought for perusal of the documents and the statements of the witnesses. However, no opportunity was given to the petitioner to peruse the relevant documents for submission of his reply. Since the disciplinary authority caused a threat to proceed with the enquiry in the event of failure to submit his reply, left with no other option, the petitioner submitted a detailed reply without perusal of the documents relied upon by the disciplinary authority. Thereafter, the third respondent appointed the Assistant Manager (Business), Salem, as enquiry officer to enquire into the matter. During the course of enquiry, the petitioner submitted various representations stating that he was not given any documents to proceed with the enquiry and the statements of the witnesses relied upon by the disciplinary authority were also not furnished. However, the enquiry officer without considering his representations submitted his report on 2.5.2011 stating that the petitioner did not cooperate with the enquiry and consequently held that the charges were proved. Based upon the report, the disciplinary authority issued a second show cause notice dated 14.5.2011 seeking his explanation on the enquiry report.

(c) Thereafter, the disciplinary authority referred the matter to the appellate authority, the second respondent herein and the second respondent called for an enquiry and ultimately awarded punishment of stoppage of increment for three years with cumulative effect. Aggrieved by the said order of punishment, the petitioner preferred an appeal before the first respondent. Though the appeal was heard in January 2012, no orders were passed. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.11016 of 2013 and this Court directed the first respondent to pass orders in the appeal within six weeks. Pursuant to the said order, the first respondent passed an

order dated 17.6.2013 confirming the punishment of stoppage of increment for three years with a modification as "without cumulative effect" .

(d) Now, the petitioner has retired from service and after his retirement, the first respondent after consultation with the Government, prepared the list of panel for promotion and in the said panel, his junior one P.Ramanandam was promoted. When his junior was promoted, the petitioner's pay has to be fixed as per G.O.Ms.No.203 dated 30.10.2000. In this regard, the petitioner sent a representation dated 11.8.2016 to the respondents, but the same was not considered. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the respondents to consider the representation of the petitioner dated 11.8.2016 and pass appropriate orders, on merits and in accordance with law and also as per the Government Order in G.O.Ms.No.203 dated 30.10.2000, within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sbi

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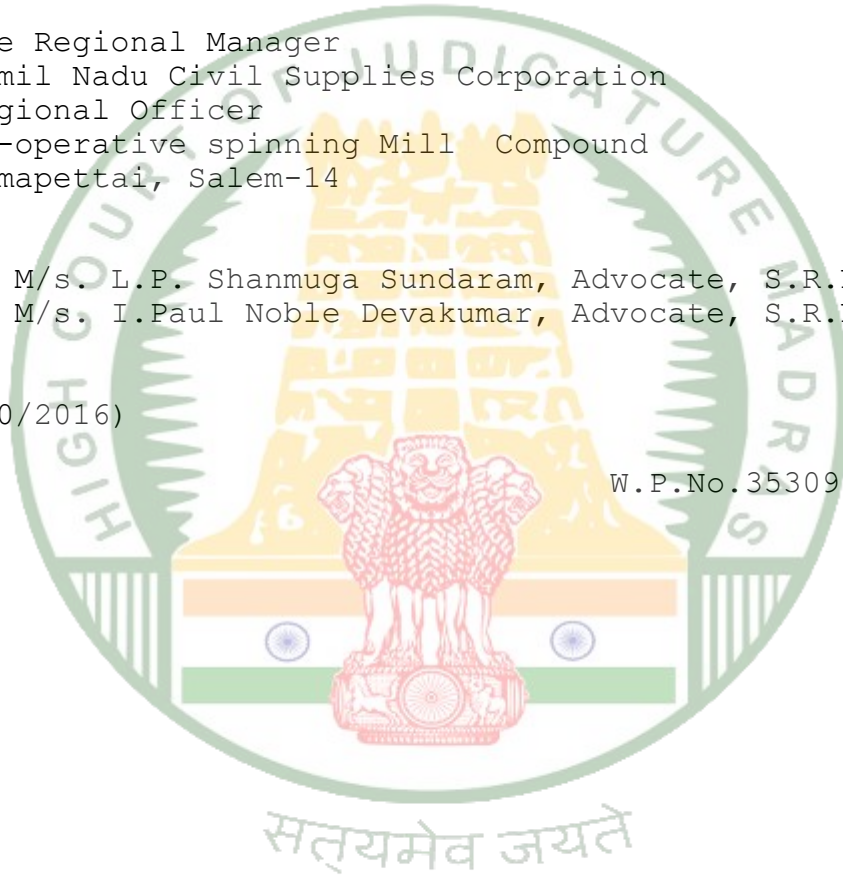
To

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Regional Officer
Co-operative spinning Mill Compound
Ammapettai, Salem-14

+1cc to M/s. L.P. Shanmuga Sundaram, Advocate, S.R.No.57401
+1cc to M/s. I.Paul Noble Devakumar, Advocate, S.R.No.57403

UG (CO)
EU (07/10/2016)

W.P.No.35309 of 2016



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