



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.167 of 2015
and
M.P (MD) No.1 of 2015

A.S.Palanisamy

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Thambusamy Street,
Kilpauk, Chennai 10.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Pudukottai Region,
Pudukottai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent vide Na.Ka.No. MH4/81547/2012 dated 10.11.2014 and quash the same and consequently direct the respondents either to accept 9.815 metric tons of rice or its equivalent valuation of Rs.1,57,040/- (One lakh fifty seven thousand and forty rupees only) and may permit the petitioner to do hulling activities at his Tirumalai Mahalakshmi Modern Rice Mill for Tamil Nadu Civil Supplies Corporation.

For Petitioner : Mr.K.P.Narayanakumar
For Respondents : Mr.R.Vijayakumar

ORDER

Challenging the order passed by the first respondent dated 10.11.2014, confirming the order of the second respondent dated 30.07.2014 forfeiting the amount of Rs.5,77,536/- towards shortage of 497 gunny bags of paddy, the present writ petition has been filed.



the respondents.

3. From the perusal of the records, it is seen that the petitioner was a hulling agent under the respondent corporation. Earlier, the second respondent who is the Regional Manager passed an order blacklisting the petitioner and also ordered for recovery of Rs.5,77,536/-. Challenging the order of recovery, the petitioner filed W.P(MD)No.12754 of 2012. After considering the submissions made on either side, this Court, by an order dated 16.06.2014, passed the following order:-

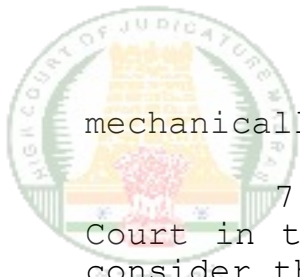
"5. On a reference to the impugned order, it is seen that the impugned order is not so specific on the allegations levelled against the petitioner. Moreover, no material whatsoever is found in the impugned order reflecting that the second respondent has considered all the relevant materials.

6. In view of the above, this Court is of the view that it is appropriate to place the matter back to the first respondent for proper consideration. Accordingly, the petitioner is directed to place all the supporting documents and testimonials before the first respondent within two weeks. On receipt of the same, the first respondent is directed to consider the same and decide as to what is the actual shortage of quantity of paddy and the amount to be paid by the petitioner, and thereafter, pass appropriate orders, after giving sufficient opportunity to the petitioner, within a period of six weeks from the date of receipt of documents from the petitioner."

4. When this Court has directed the first respondent to decide as to what is the actual shortage of quantity of paddy and the amount to be paid by the petitioner and pass orders after giving sufficient opportunity to the petitioner, the second respondent by an order dated 30.07.2014 passed an order thereby confirming the order of blacklisting and also confirming the order of recovery dated 07.09.2012. Aggrieved over the same, the petitioner said to have filed an appeal before the first respondent. The first respondent, by an order, dated 10.11.2014 dismissed the said appeal confirming the order passed by the second respondent. Challenging the said order, the present writ petition has been filed.

5. I have considered the submissions made on either side and perused the materials available on record.

6. Learned counsel appearing for the petitioner submitted that as per the direction given by this Court in the above said writ petition, the first respondent has to consider the petitioner's application and pass appropriate orders and the second respondent has no authority to pass such orders. He would further contend that since the appellate remedy is provided under the regulation, the petitioner has filed an appeal before the first respondent and the first respondent without considering the case of the petitioner, has



mechanically confirmed the order passed by the second respondent.

7. Be that as it may, as per the direction given by this Court in the above said writ petition, the first respondent has to consider the grievance of the petitioner and the order passed by the second respondent dated 30.07.2014 is not sustainable in law.

8. In the above circumstances, the order passed by the second respondent dated 30.07.2014 and the subsequent order passed by the first respondent 10.11.2014 are set aside and the matter is remitted back to the first respondent for fresh consideration of the matter, as per the orders passed by this Court in W.P(MD)No.12754 of 2012, dated 16.06.2014. It is needless to mention that the first respondent shall consider the case of the petitioner as per the direction given by this Court in the above said writ petition and pass suitable orders within a period of twelve weeks from the date of receipt of a copy of this order after considering the objection filed by the petitioner, if any.

9. Accordingly, the writ petition is allowed. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
Thambusamy Street,
Kilpauk, Chennai 10.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Pudukottai Region,
Pudukottai.

+ 1 CC TO Mr.R.VIJAYAKUMAR, ADVOCATE IN SR No. 65345
+ 1 CC TO Mr.K.P.NARAYANAKUMAR, ADVOCATE IN SR No. 66370

SMS

TE/GSV-PM : 21/11/2016 : 3P/5C

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