

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.1633/2012 and M.P.No.1/2012 against WP.5201/04

1. The Managing Director,
The Tamil Nadu Industrial Investment Corporation
Limited, No.473, Anna Salai,
Nandanam, Chennai-35.
 2. The Chairman,
Board of Directors,
The Tamil Nadu Industrial Investment Corporation
Limited, No.473, Anna Salai,
Nandanam, Chennai-35. Appellants/Respondents
- Vs
- M.Shahul Hameed Respondent/Petitioner

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 12.05.2011 made in W.P.No.5201/2004 by a learned Single Judge.

WP.NO.5201/04: This Writ Petition is filed Under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus calling for and examining the entire records relating to and connected with the proceedings of the first respondent herein resulting in his order in proceedings No.Admin/Dw/2000-01 dated 21.03.2001 as confirmed by the order of the second respondent herein dated 18.11.2002 in the proceedings in TIIC/Admn/Dw/2002-03, to quash the same and directing the respondents to reinstate the petitioner into service with all benefits and privileges which he would have been entitled to but for the impugned orders.

For Appellants :: Mr.Vijayanarayanan, Senior Counsel
for Mr.K.V.Sundararajan,

For Respondent:: Mr.P.Rajkumar Pandian

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 12.05.2011 made in W.P.No.5201/2004 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner/respondent herein seeking to issue a Writ of certiorarified Mandamus, calling for and examining the entire records relating to and connected with the proceedings of the 1st respondent herein resulting in his order in Proceedings No.Admn/DW/2000-2001 dated 21.03.2001 as confirmed by the order of the 2nd respondent herein dated 18.11.2002 in the proceedings in TIIC/Admn/DW/2002-03, to quash the same and directing the respondents to reinstate the petitioner into service with all benefits and privileges which he would have been entitled to, but for the impugned orders.

3. The case of the writ petitioner in brief is that he was appointed as a Junior Clerk in Tamil Nadu Industrial Investment Corporation (TIIC) Limited by the 1st respondent therein by order dated 20.03.1972. Subsequently, step by step, he was promoted and in the year 1980, he became the Director of TIIC Employees' Co-operative Societies and its President sometimes later. While so, the Managing Director of TIIC, by order dated 28.10.1998 placed him under suspension. Thereafter, a Charge Memo was served on the petitioner on 6.7.1999 by the Managing Director alleging certain irregularities. The petitioner submitted his explanation to the same. Pursuant to the same, an Enquiry Officer was appointed and based on the Enquiry Officer's Report, he was removed from service by order dated 21.03.2001. The writ petitioner preferred an appeal before the Appellate Authority on 09.05.2001, who in turn, passed an order dated 18.11.2002 dismissing the writ petitioner from service. Aggrieved over the same, the Writ Petition which was filed by the petitioner was allowed by order dated 12.05.2001 by the learned Single Judge of this Court. Hence, the present Writ Appeal by the appellant Management.

4. Learned Senior Counsel appearing for the Appellants would submit that on random check up of certain files at Chennai (North) Branch Office, it was found that the writ petitioner/respondent herein had committed serious lapses/irregularities in 5 loan files involving lakhs and lakhs of rupees. Therefore, following the rules and regulations of the Appellant Corporation, by issuing the charge memo, conducting an Enquiry by the Enquiry Officer and based on his report, finally, the respondent was dismissed from service. Therefore, the present Writ Appeal has to be allowed by setting

aside the orders of the learned Single Judge.

5. Learned Counsel appearing for the respondent would submit that along with the respondent, three other persons, namely, D.Karunanidhi, Branch Manager, M.P.Rajkumar, Office-Finance, S.Mohana, Officer-Finance were also involved in the alleged irregularities. Though the respondent and Karunanidhi were dismissed from service, the other two persons, namely, M.P.Rajkumar and S.Mohana were just demoted and retained in service. Therefore, according to the learned Counsel for the respondent, the impugned orders are contrary to law and prays for dismissal of the present Writ Appeal.

6. Considered the submissions made on either side and We have also carefully gone through the materials placed on record.

7. Considering all the above submission on factual position, we are of the view that the learned Single Judge taking notice that some discrimination has been taken place in treating the delinquents by demoting and retaining two persons and dismissing two other persons without any uniformity, has allowed the Writ Petition filed by the respondent herein. Therefore, we find no infirmity in the order of the learned Single Judge. However, without interfering with the order passed by the learned Single Judge by setting aside the punishment imposed on the respondent herein on the ground of discrimination, this Court directs the appellant Management to take a decision in the matter by reconsidering the case of the respondent herein, taking into account the gravity of the irregularities committed by the respondent herein along with other 3 persons cited above and the nature of the reduction of duty on the part of each of the persons and thereafter, proceed further in accordance with law. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this Order.

8. With the above observation and direction, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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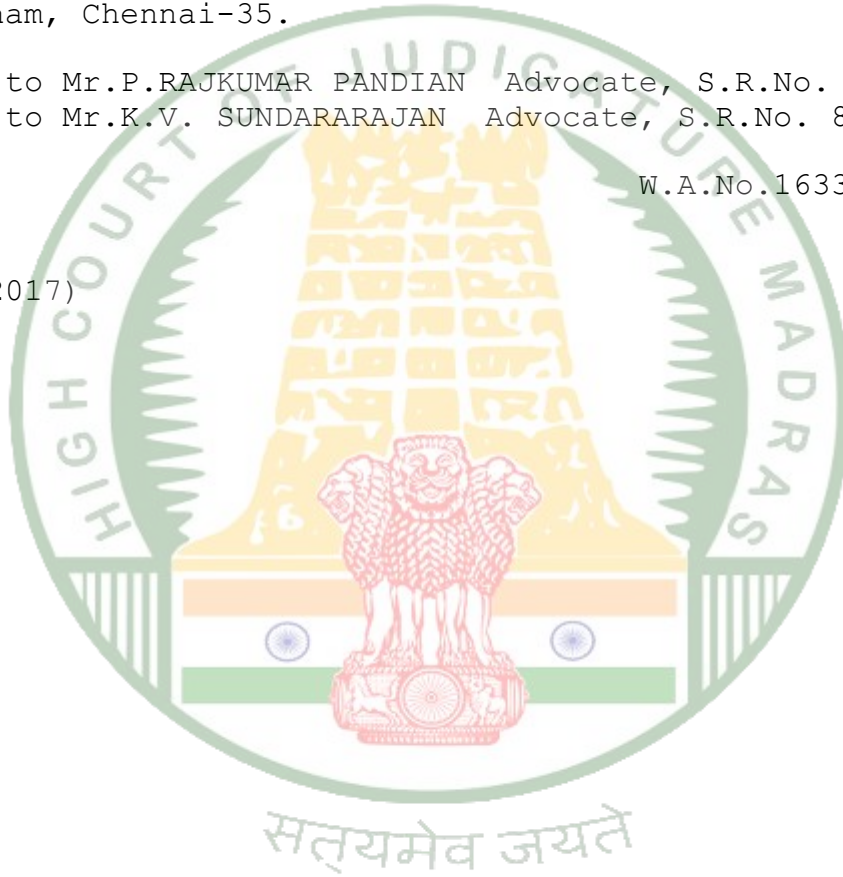
TO.

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2. The Chairman,
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Limited, No.473, Anna Salai,
Nandanam, Chennai-35.

+2cc to Mr.P.RAJKUMAR PANDIAN Advocate, S.R.No. 86083
+1cc to Mr.K.V. SUNDARARAJAN Advocate, S.R.No. 87006

W.A.No.1633/2012

RJ(CO)
TR(21/12/2017)



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