

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.12.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

AND

THE HONOURABLE MR.**JUSTICE P.VELMURUGAN**

W.A.No.18 of 2013

1.The Board of Directors,
Tamil Nadu Civil Supplies Corporation Ltd.,
12, Thambusamy Road,
Kilpauk, Chennai 10.

2.The Chairman cum Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
12, Thambusamy Road,
Kilpauk, Chennai 10.

3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Salem 7

versus

V.Varadharajan

... Appellants

... Respondent

Appeal filed against the order passed by this Court dated 2.11.2012
passed in W.P.No.39610 of 2002.

For appellant : Mr.C.Munusamy

For Respondent : Mr.Singaravelan, Senior Counsel
for Ms.Srividya

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The Tamil Nadu Civil Supplies Corporation Ltd., initiated disciplinary proceedings against the respondent on the ground that he failed to discharge his duties as Double Lock Officer, in the corporation godown at Salem Region and thereby caused loss to the tune of Rs.3,44,239/-. The

respondent was punished by the Disciplinary Authority by imposing punishment of stoppage of increment for a period of six months with cumulative effect. The order dated 28 April 1994 was upheld by the Appellate Authority by order dated 19 June 1995. The criminal case registered against the respondent in C.C.NO.86 of 1990 on account of the shortage of 1151 bags of paddy kept in the private rice mill godown ended in acquittal by judgment dated 26 June 1996.

2. The appellants, long after the conclusion of the disciplinary and criminal proceedings, issued a notice dated 10 June 2002 calling upon the respondent to show cause as to why a sum of Rs.3,44,239/- should not be recovered from him. The show cause notice was quashed by the writ court on the ground of delay. Feeling aggrieved, the Tamil Nadu Civil Supplies Corporation is before this court.

3. We have heard the learned Standing counsel for the appellants. We have also heard the learned Senior counsel for the respondent.

4. The respondent was posted as double lock officer in Salem Region by the Tamil Nadu Civil Supplies Corporation Ltd. The hulling agent appears to have taken away the paddy and rice, resulting in shortage. The monetary loss to the Corporation was assessed at Rs.3,44,239/-. The Civil Supplies Corporation initiated disciplinary proceedings against the

respondent and he was ultimately punished by order dated 28 April 1994. The respondent was acquitted in the criminal proceedings for the very same charge, in C.C.No.86 of 1990.

5. The Corporation appears to have filed a civil suit against the hulling agent for recovery of the alleged loss. It was only after the denial of relief by the civil court, the corporation has issued the impugned show cause notice dated 10 June 2002, to recover the amount from the respondent.

6. The Corporation suffered the loss in the year 1985. Nothing prevented the appellants from taking action against the respondent within a reasonable period. The Corporation was well aware that the hulling agent was primarily responsible for the loss. It was only with that knowledge, action was taken to recover the amount from the hulling agent. Failure to recover the money from the agent would not give a right to initiate action for recovery against the respondent, 17 years after the alleged incident. The respondent was subjected to disciplinary and criminal proceedings. The proceedings were all over long back. There is nothing on record to justify the undue delay in initiating proceedings for recovery. The learned single Judge was therefore justified in quashing the notice dated 10 June 2002. We are therefore of the view that there is absolutely no merits in the contentions taken by the appellants.

K.K.SASIDHARAN, J.

and

P.VELMURUGAN, J.

(tar)

7. In the upshot, we dismiss the intra court appeal. No costs.
Consequently, M.P.No.1 of 2013 is also dismissed.

(K.K.SASIDHARAN, J.) (P.VELMURUGAN, J.)

05.12.2017

Index: Yes/no
tar

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