

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.44468 of 2002

V.Elavazhagan

... Petitioner

Vs.

1. The Chief Executive Officer,
Tamil Nadu Khadi Village Industries Board,
Kuralagam, Chennai - 600 108.

2. The General Manager,
Khadi Kraft,
Chennai - 600 108.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st respondent in respect of proceeding No.Na.Ka.5848/E4(2) 2001 dated 21.10.2002 ordering to recover a sum of Rs.9,103/- from the petitioner's salary and quash the same.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.S.K.Bose for R1 & R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the 1st respondent in respect of proceeding No.Na.Ka.5848/E4(2)2001 dated 21.10.2002 ordering to recover a sum of Rs.9,103/- from the petitioner's salary and quash the same.

2. Heard the learned counsel appearing for the petitioner as well as the respondents.

3. The brief facts of the case is as follows:

The petitioner joined as a Junior Assistant in the respondent board on 09.08.1988 and after working in various places, when the petitioner was working under the control of the second respondent, for not taking steps of defective cheques and

uncleared cheques and fixing responsibility against the petitioner, the second respondent issued a charge memo on 30.01.2001 stating that eight cheques which could not be realised on the grounds of insufficient funds, missing of signature of second person and lapse of three months which was not presented in time.

4. The cheque details are as follows:

Sl. No.	Cheque No.	Date	Amount (in Rs.)
1.	325151	12.08.199 2	2,398.00
2.	522564	12.07.199 3	25,920.00
3.	543586	16.09.199 3	263.00
4.	204623	08.02.199 4	1,624.00
5.	494729	05.02.199 5	100.00
6.	474730	05.03.199 5	100.00
7.	299159	23.09.199 6	8,092.00
8.	383933	25.06.199 8	643.00
Total			39,140.00

5. After receipt of the charge memo, the petitioner submitted a detailed reply on 20.03.2001. After conducting the enquiry and being not satisfied with the reply given by the petitioner, the first respondent passed a final order on 21.10.2002 stating that loss was caused to the Board because of dereliction of the petitioner in his duty and he ordered to deduct a sum of Rs.9,103/- towards the partial amount out of Rs.36,410/- being the total amount of the un-cleared cheques, against which, the present writ petition has been filed.

6. The learned counsel appearing for the petitioner would submit that the petitioner had taken effective steps to recover the dues and presented the cheques. However there are other persons who were incharge of the said office and they have not taken any steps to present the cheques for recovering the amount due to the second respondent board and he prayed for allowing

the writ petition and to quash the recovery order dated 21.10.2002.

7. Per contra, learned counsel appearing for the respondents would submit that the petitioner had not taken effective action in time thereby the second respondent accrued huge loss of a sum of Rs.36,410/- which could not be collected due to the length of time which was not presented and since the petitioner and other officers had not taken any steps and the amount was also not recoverable due to lapse of time. Hence, the first respondent fixed the liability against the petitioner and passed impugned order dated 21-10-2002.

8. It is relevant to mention here that immediately after the cheques were dishonoured, the procedure contemplated under the Negotiable Instruments Act have to be followed. If the procedure is not followed, it is impossible to recover the amount from the defaulter. In the present case, the petitioner did not take any steps to follow the procedures contemplated under the Negotiable Instruments Act in order to appropriate the cheques issued by the defaulter. If the limitation lapses by presenting the cheques or issuing notice to the defaulter, then it is impossible to recover.

9. Admittedly the respondent followed the principles of natural justice by issuing the show cause notice and conducting the enquiry and thereafter they passed the order and fixed the liability against the persons. If the amount is recoverable dues, the Court can extend the benefit applying the ratio laid down by this Court.

10. However, in the case on hand, for the non recovery due, the petitioner is responsible for the lapses and I do not find any error in the impugned order passed by the first respondent, that too, after a lapse of nearly fifteen years. Accordingly the writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS V)

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Sub Asst. Registrar

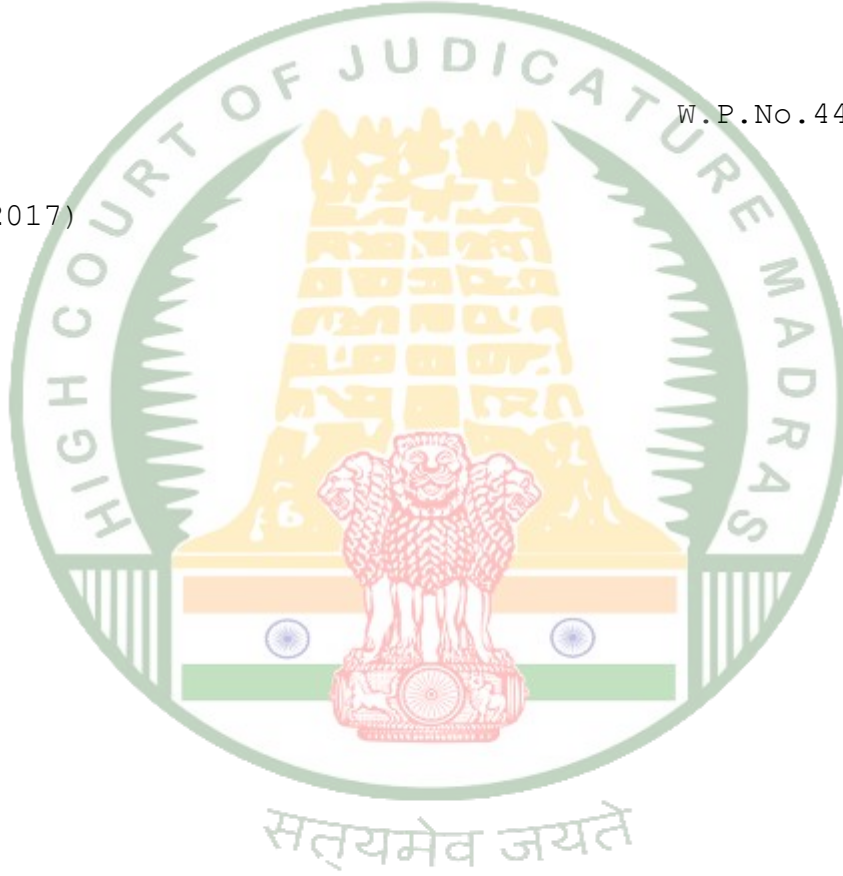
To

1. The Chief Executive Officer,
Tamil Nadu Khadi Village Industries Board,
Kuralagam, Chennai - 600 108.
2. The General Manager,
Khadi Kraft,
Chennai - 600 108.

+lcc to Mr.V. Manisekaran, Advocate Sr. 56020
+lcc to Mr.S.K.Bose, Advocate Sr. 56067

W.P.No.44468 of 2002

AR(V)
VR(05/09/2017)



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