

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2017

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Writ Petition No.18627 of 2003

H.Thasul

... Petitioner

Vs.

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

2.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation
Ltd.,
No.7, Conran Smith Road,
Gopalapuram, Chennai-86.

3.R.Sundaram. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorari to call for the records of respondents particularly that of the third respondent in B5/28833/2002 dated 2.6.2003 and quash the same as illegal, unlawful, without jurisdiction and mala fide by virtue of final order passed in C.C.Nos.5963 to 5967 of 1986 dated 27.9.2000 by the Additional Chief Metropolitan Magistrate, Egmore.

For Petitioner : Mr.T.S.Rajamohan

For Respondents: Mr.T.S.Prabhagar, for
Mr.V.Selvanayagam, for R2
Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader, for R3

ORDER

The petitioner was working as Bill Clerk under the second respondent during the relevant period. For alleged misappropriation of monies, a charge memo dated 16.2.1984 was served on the petitioner containing four articles of charges relating to misappropriation. Of course, an FIR was also filed against the petitioner before the CCIW, CID police and after investigation, the police filed five final reports in C.C.Nos.5963 to 5967 of 1986 for the offence under Section 409 I.P.C. against the petitioner before the competent criminal Court. However, the departmental proceedings against the petitioner were proceeded and his explanation was sought. Not satisfied with his explanation letter dated 11.12.1989, domestic enquiry was conducted on 11.10.1990 in which the petitioner participated. The enquiry Officer, by a report dated 11.6.1991, held that the charges were proved and after considering the explanation of the petitioner, the disciplinary authority, by order dated 28.11.1991, removed the petitioner from service without prejudice to the recovery proceedings. The appeal preferred by the petitioner to the Chairman cum Managing Director was also dismissed on 16.6.1994. Thereafter, the petitioner was acquitted by the criminal Court in C.C.Nos.5963 to 5967 of 1986 on 27.9.2000. After the acquittal, the petitioner gave a representation dated 15.11.2002 to the authorities seeking reinstatement in service. He filed a writ petition in W.P.No.21151 of 2000 in which, this Court directed the respondents to dispose of his representation dated 15.11.2002. Pursuant to the orders of this Court, the respondents sent a communication dated 18.10.2002 to the petitioner stating that he was dismissed from service after due enquiry on 16.6.1994 itself. It may be relevant to state that the petitioner had not chosen to challenge the order of dismissal dated 16.6.1994, but, whereas, he filed W.P.No.3392 of 2003, which was also dismissed by this Court on 2.9.2010. Respondent Nos.1 and 2 herein had sent the papers to the third respondent for recovery of the swindled amount from the petitioner under the Revenue Recovery Act, pursuant to which, the third respondent viz., the Tahsildar, Fort Tondiarpet Taluk, Chennai-3, issued a notice dated 2.6.2003 to the petitioner calling upon him to remit a sum of Rs.34,436.85, failing which proceedings under the Revenue Recovery Act would be taken. Challenging the notice dated 2.6.2003 issued by the third respondent, the petitioner has filed the present writ petition.

2. In the considered opinion of this Court, the petitioner has not made out any case for challenging the communication dated 2.6.2003 issued by the Tahsildar under the Revenue Recovery Act. Admittedly, the petitioner was dismissed

from service way back in the year 1994 after due enquiry for the acts of misappropriation of the funds of the Corporation. His acquittal by the criminal Court, subsequently, in the year 2000, on technical grounds, cannot absolve him from the liability to make good the loss to the department.

3. In the result, the writ petition is devoid of merits and the same is liable to be dismissed accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman cum Managing Director,
Tamil Nadu Civil Supplies Corporation
Ltd.,
Thambusamy Road, Kilpauk,
Chennai-10.
- 2.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation
Ltd.,
No.7, Conran Smith Road,
Gopalapuram, Chennai-86.

+1cc to Mr.V.Selvanayagam, Advocate Sr.12380
+1cc to the Government Pleader Sr.13157

W.P.No.18627 of 2003

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srg 14/03/2017

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