



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A(MD)No.149 of 2017
and
C.M.P(MD)No.1627 of 2017

1.The Board of Directors (Appellate Authority),
The Tamil Nadu Minerals Limited,
Chennai - 600 005.

2.The Tamil Nadu Mineral Limited rep. by its
Chairman and Managing Director,
Chennai - 600 005.

3.The Deputy Manager,
Personnel and Administration,
The Tamil Nadu Minerals Limited,
Chennai - 600 005.

4.Henry Robert (Enquiry Officer),
Dy. Manager (Maintenance),
Tamil Nadu Minerals Limited,
Chennai - 600 005.

.. Appellants/
Respondents

Vs.

S.Venkatachalapathy

.. Respondent/
Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 24.09.2014 passed in W.P(MD)No.3252 of 2010 by the learned Single Judge.

Prayer in WP(MD). 3252/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of WRIT OF CERTIORARI, by calling for the records of the 1st Respondent herein culminating in its Order in R.C.No.12628/E1/2001, dated 20-08-2009 confirming <https://hservices.ecourts.gov.in/hservices/> of the 2nd Respondent herein in P.R.O.C.S.No.12628/E1/2008, dated 22-10-2008 and quash the same.



For Appellants

: Mr.R.Karthikeyan,
Additional Government Pleader.

For Respondent

: Mr.S.Deenadhayalan

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J U D G M E N T

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

This Writ Appeal has been preferred by the appellants, being aggrieved over the order of the learned Single Judge, by which the punishment imposed by the appellants itself, was set aside.

2.The respondent herein was working as a Project Officer of the Granite Quarry run by the Government. Charges have been framed against the respondent with respect to the alleged misconduct, while dealing with the granite blocks. The disciplinary authority found that the charges 1 to 3 are not proved. These are the main charges. Charge No.4 is with respect to failure on the part of the respondent to assign numbers to 26 blocks and thus failed to safeguard them deliberately. Charge No.5 was to the effect that the respondent has violated the procedure of paint marking, etc. leading to gross-negligence in his duties.

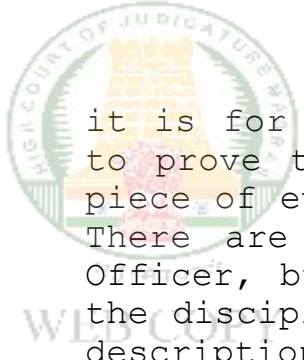
3.The learned Single Judge was pleased to set aside the orders passed by the appellants on the ground that the explanation given along with the evidence produced both oral and documentary on the part of the respondent, were not looked into. The punishment has been imposed, based upon mere surmises and without any basis.

4.The learned Additional Government Pleader appearing for the appellants/respondents would submit that the charges 1 to 3 are very serious in nature and though the respondent/petitioner is exonerated, the remaining charges have been proved and hence the order passed by the learned Single Judge, requires interference.

5.The learned counsel appearing for the respondent/petitioner would submit that there is no dispute about the procedural infirmities as pointed out by the learned Single Judge.

6.Incidentally, the learned Single Judge did not remit the matter by taking into consideration the lapse of time and also perhaps it may be in the minds of the learned Single that the three main charges were found to be not proved. We do not find any error in the order passed by the learned Single Judge, warranting interference.

<https://hcservices.ecourts.gov.in/hcservices/> 7.We also perused the report of the Enquiry Officer, along with the orders passed by the appellants, while imposing punishment. Law is well settled that in the departmental enquiry,



it is for the department, to direct the presence of the officer, to prove the charges. The evidence of the Enquiry Officer is a piece of evidence to be appreciated by the disciplinary authority. There are infirmities, not only, in the report of the Enquiry Officer, but also in the orders passed by the appellants. Before the disciplinary authority, the writ petitioner has given detailed description of his case. On a perusal of the orders passed by both the disciplinary authority as well as the appellate authority, we do not find any discussion on the various points raised by the writ petitioner. Thus, we do not find any error in the order passed by the learned Single Judge, warranting interference. In fact, the appellate authority merely confirmed the order passed by the disciplinary authority, in few lines. Though, a procedural violation would automatically result in a fresh enquiry, however, considering the facts of the case, the learned Single Judge has rightly held that there is no point in remitting the matter, since more than a decade has elapsed. The learned Single Judge has also rightly held that the findings of the Enquiry Officer are arbitrary inasmuch as the same are without any evidence and for the aforesaid reasons, the writ petitioner cannot be made to suffer. We also take note of the fact that from the main charges, namely, charges 1 to 3, the writ petitioner has been exonerated. Therefore, no ground is made out in this writ appeal and accordingly the same is liable to be dismissed.

8. In the result, this Writ Appeal is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub-Assistant Registrar

To

1. The Board of Directors (Appellate Authority),
The Tamil Nadu Minerals Limited,
Chennai - 600 005.
2. The Chairman and Managing Director,
Tamil Nadu Mineral Limited,
Chennai - 600 005.
3. The Deputy Manager,
Personnel and Administration,
The Tamil Nadu Minerals Limited, Chennai - 600 005.

+One cc to Mr.S.Deenadhayan, Advocate, SR.No.64924

+One cc to The Special Government Pleader, SR.No.64973

smn

RL/6C/3P/KK/SAR1/26/7/2017

JUDGMENT MADE IN
W.A(MD)No.149 of 2017
and
C.M.P(MD)No.1627 of 2017
11.07.2017