

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.01.2018

CORAM

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1152 of 2015
and
M.P.No.1 of 2015

The Collector,
Virudhunagar District,
Virudhunagar. Appellant
versus

R. Rajagopal
Block Development Officer, (Rtd.),
S/o.Ramalingam,
Kattankudi (P.O.),
Aruppukkottai Taluk,
Virudhunagar District. Respondent

Prayer:- The writ appeal is filed under Section 15 of Letters Patent Act to set aside the order passed by this Hon'ble Court in W.P.No.17482 of 2007 dated 30.10.2014 and allow the same.

Prayer in WP.No.17482 of 2007:The application in O.A.No.61/2004 on the file of the Tamil Nadu Administrative Tribunal to call for the records relating to the proceeding in i) R.C.No.P2/5601/2002 dt. 01.04.2003 and ii) R.C.No.P2/5601/2002 dt. 28.11.2003 of the Collector Virudhunagar District Virudhunagar (the Respondent herein) and quash the same in so far as it relates to the Petitioner is concerned and to direct the Respondent to release the DCRG amount of Rs.95,005/- deposited in the Deposit Account of Kariapatti Panchayat Union and refund the same to the petitioner or in the alternative to refund the amount of Rs.61,005/- deducting the amount of Rs.34,000/- for which responsibility was fixed on the petitioner has been transferred to the file of this Court and renumbered as W.P.No.17482 of 2007.

For Appellant : Mr.V.Anandhamurthy
Additional Government Pleader

For Respondent : Mr.R.Muthukannu

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

This intra Court Appeal is directed against the order dated 30.10.2014 in writ appeal No.1152 of 2015, whereby and where under, the learned Single Judge quashed the proceedings dated 01.04.2003 and the consequential proceedings dated 28.11.2003, on the file of the District Collector, Virudhunagar District, deducting a sum of Rs.95,000/- from the Death cum Retirement Gratuity of the respondent, on account of the loss sustained by the department.

2. We have heard the learned Additional Government Pleader appearing on behalf of the appellant and the learned counsel for the respondent.

3. The respondent was employed as Block Development Officer at Kariapatti Panchayat Union. The respondent, along with other officials, including the Panchayat President, issued cement bags to the beneficiaries of the houses allotted by the Government on credit basis. The respondent was expected to recover the cost of materials supplied on credit basis from the president of the local body. The respondent released 200 bags of cement. Similarly, two other Block Development officers released cement and steel. Since the amount was not recovered, the Government initiated disciplinary proceeding against the respondent and the other two employees. The enquiry officer conducted enquiry and on the basis of the report submitted by him, the disciplinary authority, viz., the District Collector passed an order dated 01.04.2003 directing the respondent and T.Alagar Raj to pay a sum of Rs.1,90,000/- equally. In short, the respondent was directed to pay 50% of the amount assessed by the authorities as indicated in the order dated 01.04.2003.

4. The respondent challenged the proceedings before the writ Court, on the ground that he was not responsible for the entire loss sustained by the appellant. The respondent further contended that the other employee by name T.Alagar Raj was given leniency by the Government by not recovering 50% of the amount from him.

5. The learned Single Judge allowed the writ petition primarily on the ground that different treatment was meted out to the respondent. According to the learned Single Judge, there was no recovery from Tr.M.Kaliappan and the respondent being placed similarly, is not liable to pay the amount. Accordingly, the impugned order was quashed. Feeling aggrieved, the appellant has come up with this intra court appeal.

6. There is no dispute that the respondent has given two hundred bags of cement in total. It is also not in dispute

that the amount was not recovered from the beneficiary. Similar charges were framed against two other employees. Another employee by name M. Kaliappan was also found guilty by the authorities. However, the amount was not recovered from him.

7. The fact that action was not taken to recover the amount from another employee cannot be a reason to absolve the respondent from the charges. The respondent has no case that he was not instrumental in releasing 200 bags of cement on credit. The respondent was therefore equally responsible for giving the cement on credit and failure to recover the amount. We are therefore of the view that the learned Single Judge was not correct in allowing the Writ Petition in its entirety.

8. The other question is as to whether the respondent is liable to pay the entire amount. Taking into account the misconduct committed by him and other employees, the Collector quantified the amount at Rs.1,90,000/- and directed the respondent to bear 50% of the same. While calculating the said amount, cement and steel supplied by the two employees were also included. When it is made out that the respondent is responsible only for 200 bags of cement, he is liable to pay only the proportionate amount for 200 bags of cement. There is an indication in the proceedings that 200 bags of cement was valued at Rs.34,000/- The respondent is therefore liable to pay the said amount.

9. We therefore modify the order passed by the learned District Collector, Virudhunagar and the ultimate order passed by the learned Single Judge.

10. We permit the appellant to recover a sum of Rs.34,000/- from the respondent instead of Rs.95,005/-. In case the entire amount was recovered, necessarily, the balance shall be refunded to the respondent. Such exercise either for payment or for refund shall be completed within a period of eight weeks from the date of receipt of a copy of this Judgment.

11. The intra Court appeal is allowed in part as indicated above. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

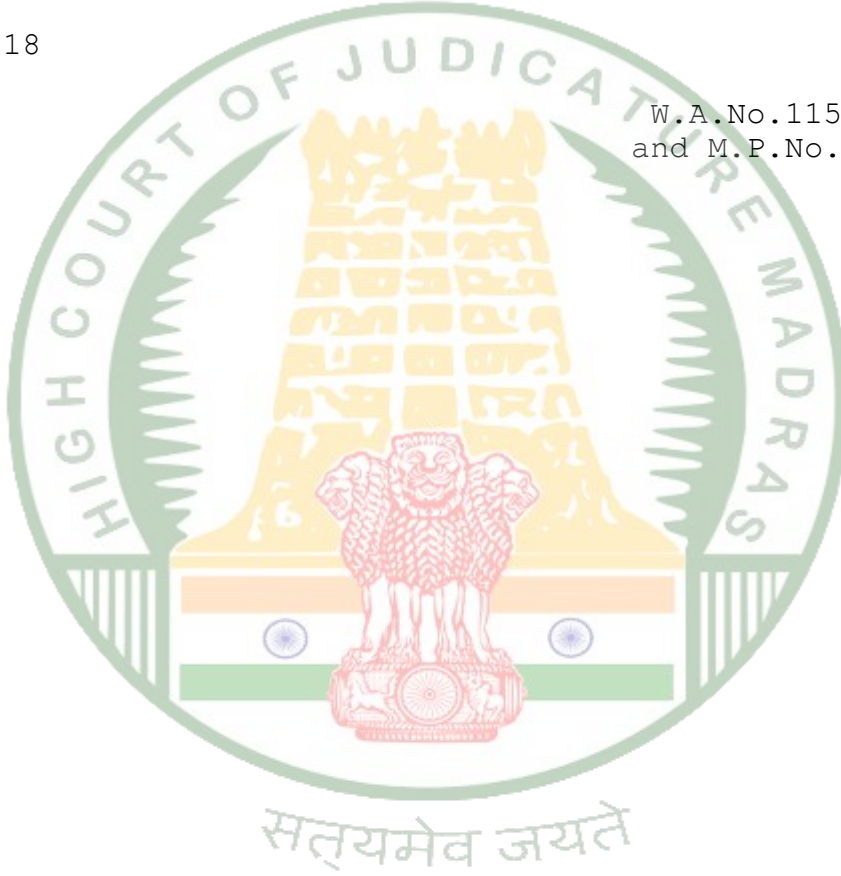
rsi/arr
To

The Collector,
Virudhunagar District,
Virudhunagar.

+lcc to Government Pleader SR.No.2981
+lcc to M/s.R.Muthukannu, Advocate SR.No.2674

KAN(CO)
sm:13.2.2018

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