

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2018

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.4870 of 2004 and
W.M.P.No.5694 of 2004

K.V.Sivakumar

..Petitioner

-vs-

1.The Tamil Nadu Industrial
Investment Corporation Ltd.,
Rep. by its Chairman
No.473, Anna Salai,
Nandanam, Chennai - 600 035.

2.The Managing Director,
Tamil Nadu Industrial Investment,
Corporation Ltd,
No.473, Anna Salai,
Nandanam, Chennai - 600 035.

3.K.Subash
General Manager (SD)
Enquiry Officer,
Tamil Nadu Industrial Investment,
Corporation Ltd.,
No.473, Anna Salai,
Nandanam, Chennai - 600 035.

... Respondents

Prayer: This Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent corporation with reference to the proceedings of the Board of Directors TIIC/ADMN/DW/2003-04 dated 5.11.2003 confirming the order of the second respondent in ref.ADMN/DW/2000-01 dated 23.3.2001 and enhancing the punishment to dismissal from service and to quash the same and consequently to direct the first respondent corporation to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.A.Sasidharan
For Respondents : Mrs.Rita Chandrasekar

O R D E R

The prayer sought for in this writ petition is for a writ of Certiorari Mandamus calling for the records of the first respondent Corporation, with reference to the proceedings of the Board of Directors TIIC/ADMN/DW/2003-04, dated 5.11.2003, confirming the order of the second respondent in Ref. ADMN/DW/2000-01, dated 23.3.2001, enhancing the punishment to dismissal from service and to quash the same and consequently, to direct the first respondent Corporation, to reinstate the petitioner in service with all attendant benefits.

2. The short facts which are required to be noticed for the disposal of this writ petition are as follows:

(i) The petitioner joined the service of the respondents, Tamil Nadu Industrial Investment Corporation Ltd., in short 'TIIC' in the year 1975 as Junior Officer, at Chennai. In the year 1982, the petitioner was promoted as Officer (Finance) and posted at Chennai. In the year 1984, he was promoted as Assistant Manager, thereafter, in the year 1988, he was promoted as the Manager.

(ii) Thereafter, in the year 1995, the petitioner was promoted as Assistant General Manager and he was posted at Coimbatore as Regional Manager at that time. Thereafter, in the year 1996, he was transferred from Coimbatore and posted as Senior Branch Manager, Chengleput West Branch, having office at Anna Nagar. The post of Senior Branch Manager is also in the rank of Assistant General Manager.

(iii) During the entire service from 1975, the petitioner had rendered unblemished service as there had been no disciplinary action against him. While so, disciplinary proceedings were initiated against the petitioner in the year 1998, by placing the petitioner under suspension on 15.09.1998. Thereafter, the second respondent, issued a charge memo to the petitioner on 18.12.1998, containing 257 charges and all these charges have been framed in respect of the loan files of the six concerns, which is a group concern, owned by one Mr.Meganathan. On receipt of the charge memo, petitioner has submitted his explanation on 26.4.1999. However, the respondent not satisfied with the explanation, appointed the third respondent as the enquiry officer, to conduct enquiry to the charges framed against the petitioner.

(iv) The third respondent after having conducted the enquiry, filed an enquiry report on 24.7.2000 and a copy of which, had been given to the petitioner and an explanation of

the petitioner had been sought for. The petitioner in fact had given his explanation stating that, out of the six loans sanctioned to the group companies, two loans had already been wiped out as the entire money had been paid back. In respect of the third loan, considerable amount had been paid by the borrower and he had personally come and assured before the Managing Director that he would wipe out the entire loans shortly. It has also been mentioned by the petitioner in his reply that, the Branch Sanction Committee for loan sanctioning, consisting of the petitioner and two other officers had, after verifying the credentials of the borrowers recommended for loan and in fact, the very same borrower has already been considered and the TIIC has already sanctioned four loans to the said borrower himself and therefore, he is a old customer and therefore, based on those credentials, the committee consisting of the petitioner and two others had recommended for sanctioning the loan to the group companies consisting of six.

(v) Even though such an explanation had been given, the second respondent, vide his proceedings dated 23.03.2001, had inflicted the punishment of removal of service against the petitioner.

(vi) As against the said order of punishment, the petitioner preferred an appeal on 9.5.2001 to the Board of TIIC, requesting the Board to reconsider the said punishment and sought for reinstatement.

(vii) However, on behalf of the board, on 12.03.2002, show cause notice was issued stating that, the board proposed to enhance the punishment of removal of service into dismissal from service. Hence, they sought for the explanation of the petitioner within 15 days. Pursuant to the said show cause notice received from the Board, the petitioner had given his explanation on 23.03.2002 and thereafter, a communication was received from the Board dated 29.05.2002 stating that, the explanation of the petitioner would be placed before the Board for consideration. Therefore, the petitioner was directed to appear in person, before the Board of Directors to represent his case on 14.06.2002. On the request of the petitioner, the said meeting was deferred to 25.06.2002 and therefore, a second communication dated 20.06.2002, directing the petitioner to appear before the Board on 25.06.2002 was received by the petitioner. Accordingly, the petitioner appeared before the Board on 25.06.2002 and had given his explanation and made appropriate appeal and requested to the Board to reconsider the punishment awarded to him and also to drop the proposal, for enhancement of punishment.

(viii) However, the Board directed the petitioner to give his explanation and request, in writing. Immediately on the very same day, petitioner had given his representation and appeal to the Board, which seems to have been placed for consideration before the Board meeting held on 17.10.2003, where, it was claimed that, the Board decided to confirm the order of proposal to enhance the punishment and accordingly, an order dated 05.11.2003 was issued by the first respondent stating that, punishment of removal of service was already inflicted against the petitioner as against which, the petitioner filed an appeal before the Board which has enhanced the punishment to dismissal from service and the said order, shall take effect from the date of issuance of the order i.e., from 05.11.2003.

3. Challenging the orders of punishment imposed by the disciplinary authority dated 23.03.2001 and also the enhancement of punishment order of the Appellate Authority i.e., the first respondent dated 05.11.2003, the petitioner has filed this writ petition with the aforesaid prayer.

4. I heard, Mr.A.Sasidharan, learned counsel appearing for the petitioner, who would submit that, in so far as the charges are concerned, though it has been mentioned that, more than 250 charges had been framed against the petitioner for each transactions, bill, invoice, voucher etc., multiple charges had been made and therefore, altogether the number of charges shown is alarmingly high. He would further submit that, the sum and substance of the disciplinary proceedings against the petitioner was that, he was part of the Branch Sanction Committee, which recommended sanctioning of six loans to six companies, which is a group of companies and while making the recommendation to sanction the loan, the committee consisting of the petitioner had not followed certain norms.

5. In this regard, the learned counsel had infact drawn the attention of this court about the reply given by the petitioner. Further, in view of the findings given by the enquiry officer that the charges had been proved against the petitioner, the punishment of removal of service was inflicted on the petitioner on 23.03.2001. The learned counsel would further submit that, when the said order of the disciplinary authority imposing punishment of removal of service was appealed to the first respondent Board, the Board instead of considering the said appeal had decided to enhance the punishment for which, show cause notice was issued and the petitioner had appeared in person and had given his reply.

6. In the reply, it has been specifically averred that, two out of the six loans already had been wiped off and with respect to the third loan, considerable amount had already been paid and the borrower himself had been taken directly to the Managing Director of the first respondent by the petitioner and in whose presence, the borrower had assured to wipe out the entire loan, within a reasonable time.

7. The learned counsel appearing for the petitioner would further submit that, it is not the case of the respondents that, because of the sanctioning of the loan, for which the disciplinary proceedings was initiated against the petitioner, there had been financial loss occurred to the respondents. When that being so, such a major punishment of removal of service ought not have been inflicted. The learned counsel would further submit that, when appeal was filed before the Board, the first respondent Board instead of considering the appeal, had decided to enhance the punishment inspite of the suitable explanation given by the petitioner and also a fervent appeal had been made by the petitioner to the Board to reconsider its decision, however they enhanced the punishment into dismissal of service, by order dated 5.11.2003. Therefore, absolutely there had been no scope for enhancing the punishment in this case.

8. Learned counsel appearing for the petitioner has also submitted that, the unblemished service of more than 20 years rendered by the petitioner had not been considered by the respondent Board. In this context, he relied upon two decisions of the Hon'ble Apex Court, namely,

(i) 1985(1) SCC 120 in the matter of Hussaini vs. Hon'ble Chief Justice of High Court of Judicature at Allahabad and Others; and

(ii) 1991 (2) SCC 635 in the matter of Kartar Singh Gerwal vs. State of Punjab;

9. By relying upon the principle underlined in those decisions of the Hon'ble Apex Court, the learned counsel appearing for the petitioner would submit that, even the major punishment of removal of service inflicted in those cases had been modified into compulsory retirement, by taking into account the unblemished service rendered by the employees in those cases.

10. Here in the case in hand, instead of modifying the punishment of removal of service, the first respondent Board, had enhanced it into dismissal of service and by virtue of that, the petitioner after having rendered a long service has not only lost his job but, also had been put in a position of not capable of receiving his gratuity and employers gratuity and provident fund which is a great injustice and therefore, interference of this Court is very much required, he contended.

11. Per Contra, learned Standing Counsel appearing for the respondents would submit that, since the respondent is a financial institution and the petitioner had been in a position of Assistant General Manager, having known to the facts that, he should follow the norms and he must be very vigilant and careful in sanctioning the loans, he should have taken all precautionary measures before recommending the loans that too 6 loans, to a group of companies. Learned Standing Counsel would further submit that, the petitioner cannot take a defence that, he was part of the Branch Loan Sanctioning Committee, which had recommended the sanctioning of loan by taking into account the credentials of the borrower and also cannot take a stand that two other members of the committee were personally known to the borrower and therefore, based on their input supplied in this regard, the petitioner had agreed.

12. Learned Standing Counsel would further submit that, this kind of defence taken by the petitioner cannot be accepted by a financial institution, as the petitioner had violated the norms before recommending for loan sanctioning.

13. Merely because, two out of six loans sanctioned to the borrower had been settled, it cannot be presumed that, the petitioner had not violated any norms. Also, if there is no financial loss to the respondents, that itself would not make entitle the petitioner to claim immunity for his misdeeds or violation of the norms being a senior officer of the respondent Corporation and has been in service for more than twenty years, he must have been the model employee or officer of the respondent Corporation and he should not have been part of the Committee, who recommended for loan without following the norms.

14. The learned Standing Counsel would further submit that, more than 250 charges had been framed against the petitioner and based on which, an enquiry was conducted, where, all necessary particulars were given to the petitioner and thereafter, after giving second show cause notice, the disciplinary authority decided to inflict the punishment of removal of service. When the appeal was filed by petitioner against such inflicting of punishment of removal of service, the Board, after having gone through the merits of the appeal had unanimously decided to enhance the punishment and therefore, according to the said proposal, further show cause notice was issued to the petitioner to explain his position, where an opportunity had been given to the petitioner, to give his explanation in writing and after getting the explanation in writing from the petitioner, the same had been placed before the Board of the respondent Corporation where, a decision had been taken to confirm the proposal of enhancement of the punishment.

15. In this regard, the learned Standing Counsel appearing for the respondents in fact had produced the original file and had pointed out that, all the necessary particulars had been given to the petitioner and his explanation had been considered in proper perspective by the Board. Since, the wrong committed by the petitioner was very serious in nature, that will have the repercussion on the financial aspects of the Corporation, the Board had decided to take a very stringent view, to enhance the punishment, as there had been no scope for lending any leniency towards the petitioner.

16. By making all these submissions, the learned Standing Counsel appearing for the respondent Corporation had submitted that, the first respondent Board has got every power not only to reject the appeal filed by the delinquent but also by exercising its suo moto power by calling for the records pertaining to the disciplinary proceedings against any employee of the Corporation or officials of the Corporation, it can enhance the punishment. Such power has been exercised judiciously by considering all the aspects and therefore, the said decision taken by the Appellate Authority also does not warrant any interference from this Court.

17. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

18. From the reading of the various proceedings placed before this Court for perusal, this Court finds no infirmity in the procedure adopted by the respondents in conducting and concluding the disciplinary proceedings. It is also not the case of the petitioner that, the petitioner has not been given proper opportunity to put forth his case. Definite charges had been framed, show cause notice was issued, reply was considered, enquiry officer was appointed, enquiry was conducted, thereafter, based on the enquiry officer's report, second show cause notice was issued and after getting the reply from the petitioner, the disciplinary authority decided to inflict the punishment. Accordingly, the major punishment of removal of service was inflicted against the petitioner.

19. However, when the said decision of the disciplinary authority was appealed by the petitioner, the Appellate Authority, i.e., the Board of the respondent Corporation, decided to enhance the punishment and accordingly, the Board issued a show cause notice and thereafter, the reply of the petitioner has been received by the Board.

20. In the reply dated 09.05.2001 as well as the further reply dated 25.06.2002, the petitioner had pointed out certain things which are note worthy to be mentioned herein. In

the reply dated 09.05.2001, the petitioner had stated as follows
:

''Thiru S.Meganathan is a borrower of the corporation from the year 1985 onwards. His track record was good. During the years 1995 and 1996. the Head Office has sanctioned 4 loans including short term loan to his group companies amounting to more than 4 crores. Of these he has availed only Rs.1.00 crore and the balance not availed. Because of his long association with the corporation 6 loans were sanctioned to his 6 different group concerns engaged in different activities by the Branch Sanction Committee.

I most respectfully submit that the loans were sanctioned on different dates by the Branch Sanction Committee consisting of 3 members including me. The other two members of the committee were Tvl.M.P.Navaneethakrishnan Senior Regional Manager (Retd) and S.Mani Senior Branch Manager, Chengleput (E) Branch and now working as AGM/Projects, Head Office. They know Thiru.S.Meganathan for many years.

I would further submit that I was personally pursuing and taking up the matter with him for recovery of dues. So far he has settled two loans in full. Further I met the Managing Director along with Thiru S.Meganathan on 8.1.2001 and at that time, he gave pay orders for about Rs.58.00 Lakhs with a view to settle another two loans and also assured to settle the balance amount soon. The Managing Director has also appreciated my effort for recovery of dues from him and also instructed me to follow up with the borrower.

Actually at the time of meeting with the Managing Director, Thiru S.Meganathan has specifically informed that Senior Branch manager (I) was not responsible for the alleged mishappenings.

As an officer assigned with the function of supervision of the working of the Branch, I strongly claim to have functioned within bounds with due care and diligence for smooth functioning of the Branch, ensuring better coordination among staff members always.

There is absolutely no collusion or conspiracy between me and others as alleged. Had there been any collusion or conspiracy Thiru.S.Meganathan would not have come forward to settle two loans in full and remit substantial amount towards another two loans. Besides, the very fact Thiru.S.Meganathan came and met the Managing Director and assured him of settling the balance amount soon would amply indicate and show that the allegation of collusion and conspiracy is not at all true. I after nearly 26 years of service in the corporation, would not stoop down to collude and conspire with others to defraud the corporation.

The borrower has so far remitted more than 1 crore. He has settled 2 loans in full and substantially reduced the dues in another 2 loans. This was made possible because of my sincere and continuous follow-up. Further I submit that there will not be any financial loss to the corporation with regard to these loans, since the borrower has assured to settle all balance due to the Corporation without any detriment to the interest of the Corporation. In this regard it is respectfully submitted that reinstatement of myself will be in the best interest of the corporation as my efforts will be directed towards recovering entire balance dues payable by Thiru.S.Meganathan and his group concerns, which will in turn expedite the process of recovery of dues from them. ''

21. Like that, in his further reply dated 25.06.2002, given to the first respondent Board, the petitioner had made the following averments:-

'' The loans were sanctioned by the Branch Sanction Committee consisting of myself, then Senior Branch Manager Chenglepet (East) Branch and the Senior Regional Manager. Thiru.S.Meganathan was a borrower of corporation from 1985 onwards. Even during the years 1995 and 1996 the Head Office has sanctioned 4 loans amounting to more than Rs.4.00 Crores to his group concerns. The borrower was known to the Senior Branch Manager, Chenglepet (East) and Senior Regional

Manager for many years. But no action was taken against the last two mentioned officials.

After suspension, I was personally following up the matter for recovery of dues. So far, Thiru.S.Meganathan has settled two loans in full and given pay orders for about Rs.58 lakhs in person on 8.1.2001 to then Managing Director with a view to settle another 2 loans and also assured to settle the balance amount soon. The then Managing Director has also appreciated me for recovery of dues from Thiru.S.Meganathan, so far he has remitted more than Rs.1.00 Crore.

The total number of charges framed were more than 250. This has been done by splitting and repeating many charges with a view to magnify the gravity of the matter.

Now, I am running 53 years and after serving nearly 26 years in the Corporation, it will be very difficult for me to seek employment somewhere else, considering my age and the stigma attached to me on account of removal from service.

Further, I have two children, one is studying in school and another will be entering college shortly and I have to take care of their further studies and future. It may not be possible for me to provide my children with good education unless I am reinstated in service. "

22. By considering the aforesaid appeal as well as the explanation given by the petitioner, the first respondent Board vide their decision dated 07.10.2003 has made the following observations:

"Regarding punishment awarded to the appellant, the Board of Directors noted that the appellant in his reply dt:23.03.2002 to the Show Cause Notice had not mentioned any specific reason as to why the punishment already awarded should not be enhanced, except requesting for reduction in the punishment and for reinstatement in view of his family circumstances. The Board also noted that the representation dt: 25.06.2002 submitted by the appellant addressed to the Chairperson of the Corporation pursuant to the personal hearing before the Board, which was nothing but a repetition of some of the points raised by him

in his appeal.

The Board further noted that apart from the above points and that it was very difficult for him to seek employment elsewhere, the appellant had not put forth any other reason to why the punishment already awarded to him should not be enhanced.

In view of the above, the Board was of the opinion that there was no reason to take a lenient view regarding the punishment in this case and resolved to confirm its earlier tentative conclusion to enhance the punishment already awarded to the appellant, to dismissal from service. The Board further resolved that the order of dismissal would take effect from the date of issue of the order."

23. On a perusal of the said decision taken by the first respondent Board, as per the minutes recorded on 07.10.2003, though the reasoning given in the appeal as well as the reply to the show cause notice of the petitioner had been taken into account, however, the Board has come to the conclusion that, the petitioner has not made any specific reason as to why the punishment awarded already should not be enhanced, excepting for reduction in punishment and for reinstatement, in view of his family circumstances. Though such a plea had been raised by the petitioner on expectations that, the said punishment already awarded against the petitioner would be modified or reduced by taking a lenient view, the petitioner had also given reasons that, for sanctioning the loan, he had taken all precautions being the member or part of the Branch Sanction Committee. He has also given the reasons that, two out of the six loans have been completely wiped out and in so far as the third loan is concerned, a considerable amount has been paid and the very same borrower, who had personally come to the respondent Corporation, met the Managing Director in the presence of the petitioner and had assured to wipe out the loan at the earliest.

24. In this context, it is to be noted that, even in the minutes recorded by the first respondent Board dated 07.10.2003, it has been specifically mentioned that, resultantly no huge loss is caused to the Corporation in this case.

25. One of the reason which should have influenced the Board to take a view to punish the petitioner stringently must be that, there has been huge loss to the Corporation.

26. However, this Court does not find any such materials to show that, there had been a financial loss, that too to the extend of huge loss to the respondent Corporation, because of the group loans sanctioned to the borrowers.

27. It is also not disputed by the respondent Corporation that, the two out of the six loans have been wiped out. During the arguments, the learned Standing Counsel appearing for the respondents, on specific question, had submitted that, in the year 2009, the entire loan had been settled by way of one time settlement. However, the learned Standing Counsel added that, when the Corporation had called for one time settlement, certainly some interest portion could have been given up, which can very well be construed as a loss to the Corporation.

28. These factors would disclose that, the group loans sanctioned to the borrower which triggered the disciplinary proceedings against the petitioner, had never become a bad debt to the Corporation. As has been rightly pointed out by the learned counsel, the petitioner in his appeal as well as in the reply to the show cause notice mentioned that, two out of the six loans had already been settled by the borrower and considerable amount has also been paid already, even at the time of disciplinary proceedings itself, towards the third loan. It is also the consistent case of the petitioner that, the borrower himself had committed to wipe out the entire loan, as he had come personally to meet the Managing Director of the respondent Corporation and assured to wipe out the loan in due course.

29. However, the Board has rejected these aspects on the ground that, there had been no proof to show that, the said interaction had taken place between the Managing Director of the respondent Corporation and the borrower in the presence of the petitioner or at the instance of the petitioner.

30. Be that as it may, whether the borrower had assured or not, the net result is that, there had been no financial loss as had been averred or recorded in the minutes of the meeting of the Board dated 07.10.2003, because, at that time, almost two loans had been fully settled, part of the third loan had also been settled. The other three loans, though were not settled at that time, had subsequently been settled, by way of one time settlement in 2009, which has been accepted by the respondent side therefore, the reasoning given by the first respondent Board in their minutes dated 07.10.2003 stating that, because of resulting in huge loss to the Corporation, such a stringent punishment was awarded by way of enhancement may not be justifiable, because there is no proof to show that the respondent Corporation incurred a loss that too, huge loss

because of the group loans which is in question.

31. In this context, the two decisions of the Hon'ble Apex Court referred to by the learned counsel for the petitioner can very well be pressed into service. In respect of the first case i.e., Hussaini's case is concerned, the Supreme Court has taken a lenient view because, in that case, the petitioner therein was a low paid Government servant and he was dismissed after over twenty years of service. Such a view could have been taken by the Court because he was a low paid Government servant. Here in the case in hand, the petitioner is not a low paid servant and he is a responsible officer of the Bank and therefore, the said logic as set out in the said decision, in the opinion of this Court, cannot be made applicable to the present case.

32. In respect of the second case i.e., Kartar Singh Gerwal's case is concerned, the Hon'ble Apex Court, after having considered the plea raised therein, by taking into account the 29 years of unblemished service of an employee in a similar financial institution i.e., State Bank of Punjab, had come to a conclusion that, the order of dismissal would be the severest punishment and therefore, to meet the ends of justice, that Court had modified the punishment into compulsory retirement.

33. Here in the case in hand, the charges framed against the petitioner have been proved, except a few. Though some defences have been taken by the petitioner against the charges, since charges had been proved, the Disciplinary Authority has taken the view that major punishment of removal of service can be inflicted on him. Further, when appeal was preferred by the petitioner, the Appellate Authority i.e., the Board of the Corporation, have decided to enhance the punishment for which, though they have the power under the statute, however, before exercising such power, the Board could have considered whether intentionally in order to cheat or make loss to the respondent Corporation, the petitioner has acted upon and with the result, whether the respondent Corporation had suffered any financial loss as has been mentioned in the minutes of the first respondent Board's meeting.

34. Here in the case in hand, there is no such evidence to show that, because of the loan sanctioned by the petitioner or the loan sanctioning committee consisting of the petitioner, by way of a group loans, there had been a loss to the Corporation. When such is the position, the respondent Board, in the opinion of this Court, ought not to have come to a conclusion to enhance the punishment from removal to dismissal, as there is no such reason available to the respondent Board for making such an enhancement.

35. Merely because a sympathetic plea has been raised by the petitioner, this Court does not feel that, the petitioner is entitled to get the relief. But, at the same time, the petitioner had raised certain points such as, the borrower has wiped out two loans and for the third loan, he has paid considerable amount. The said position could have been considered in proper perspective by the Board, which, in the opinion of this Court, has not considered in proper perspective.

36. Moreover, the reasoning which very much seems to have influenced the Board to take a decision was that, there had been a huge financial loss to the Corporation. However, the fact remains that, absolutely, there had been no financial loss especially at the time of decision taken by the Board, even after that, the present position is that, in the year 2009, as has been submitted by the learned Standing Counsel for the respondent Corporation, the entire loan has been settled by way of one time settlement. Therefore, it cannot be construed as a bad debt and therefore, there is no scope for any financial loss to the respondent Corporation. When that being the position, the decision taken by the respondent Board to enhance the punishment by taking a very stringent view could have been avoided.

37. The respondent Board could have also considered the fact that, the petitioner has rendered twenty years of unblemished service to the respondent Corporation and after having rendered such a long years of service, he cannot be shown the door by denying all the benefits, including the gratuity and also contribution of the employer towards the provident fund, as these two amounts are the only source to get something from the employer side as a reward, for completion of twenty years of unblemished service.

38. In view of the above, while confirming the decision of the Disciplinary Authority in inflicting the punishment of removal of service on the petitioner for the proven misconduct, the subsequent decision taken by the first respondent, dated 05.11.2003 inflicting the enhanced punishment of dismissal of service on the petitioner is liable to be interfered with for the reasons set out above.

39. In the result, the impugned order dated 23.03.2001 of the second respondent is confirmed. The impugned order of the Appellate Authority dated 05.11.2003, enhancing the punishment from removal of service to dismissal of service is set aside.

40. In view of the above, the petitioner shall be entitled to get the financial benefits as a removed employee/officer of the respondent Corporation. The said benefits shall be paid to the petitioner by the respondent, within a period of eight weeks, from the date of receipt of a

copy of this order.

With this direction, the writ petition is allowed in part. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

smi/tsg

To

1.The Chairman,
Tamil Nadu Industrial Investment Corporation Ltd.,
No.473, Anna Salai,
Nandanam, Chennai - 600 035.

2.The Managing Director,
Tamil Nadu Industrial Investment Corporation Ltd,
No.473, Anna Salai,
Nandanam, Chennai - 600 035.

+lcc to M/s.Aiyar and Dolia , Advocate SR.No. 70263

+lcc to Mr.A.Sasidaran , Advocate SR.No. 69634

W.P.No.4870 of 2004 and
W.M.P.No.5694 of 2004

A.SK(04/02/2020)

WEB COPY