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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2018

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
and
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.32 of 2014 and 2232 of 2011
and
M.P.No.1 of 2011

In W.A.No.32 of 2014:-

M.Gnanasoundari ... Appellant/
Petitioner in W.P.No.12849/2006

.. Vs ..

1. Tamil Nadu Khadi & Village Industries Board,
Rep. by its Chairman,
Kuralagam, Chennai - 600 108.
2. The Chief Executive Officer,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
3. The Assistant Director/
Disciplinary Authority/Enquiry Officer,
Tamil Nadu Khadi & Village Industries Board,
Dharapuram now at Erode,
Erode - 638 001. ... Respondents/
/Respondents in W.P.No.12849/2006

In W.A.No.2232 of 2011:-

1. Tamil Nadu Khadi and Village Industries Board,
Rep. by its Chairman,
Kuralagam, Chennai - 600 108.
2. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai - 108.
3. The Assistant Director/Disciplinary Authority
Enquiry Officer,
Tamil Nadu Khadi and Village Industries Board,
Dharapuram now at Erode,
Erode - 638 001. ... Appellants/
/Respondents in W.P.No.12849/2006



M.Gnanasoundari

... Respondent/
Petitioner in W.P.No.12849/2006

Prayer in Writ Appeal No.32 of 2014.: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.12849 of 2006, dated 26.07.2011, thereby quashed the order of dismissal and reinstatement with continuity of service but declined to allow the back wages as prayed for in the writ petition.

Prayer in Writ Appeal No.2232 of 2011.: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 26.07.2011 passed in W.P.No.12849 of 2006, and dismiss the writ petition.

WP.No.12849/2006:Writ petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the impugned Board proceedings order NO.12 dt. 02.03.2006 passed by the 1st respondent in confirming the order of Removal From Service passed by the 2nd respondent Na.Ka.No.25268/03/E3(2) dated 20.07.2005 and quash the same and consequently direct the respondents to reinstate the petitioner into service with continuity of service back wages and all other attendant benefits from the date of removal from service till the date of reinstatement.

In W.A.No.32 of 2014

For Appellant : Mr.P.Balamurali
For Respondents : Mr.K.Bose
- - - - -

In W.A.No.2232 of 2011

For Appellants : Mr.K.Bose
For Respondent : Mr.P.Balamurali
- - - - -

COMMON JUDGMENT

(Common Judgment of the Court was delivered
by HULUVADI G.RAMESH,J.,)

Both the writ appeals are directed against the order dated 26.07.2011 passed by the learned single Judge in W.P.No.12849 of 2006.

2. For the purpose of convenience, the parties are referred to as they are ranked in W.P.No.12849 of 2006.

3. The writ petitioner has filed the above W.P.No.12849 of 2006 seeking to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned Board Proceedings Order No.12, dated 02.03.2006 passed by the first respondent, in confirming the order of removal from service passed by the second respondent in Na.Ka.No.25268/03/E3(2),



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dated 20.07.2005 and quash the same and consequently direct the respondents to reinstate the petitioner into service with continuity of service, backwages and all other attendant benefits from the date of removal from service till the date of reinstatement.

4. Heard the learned counsel for the parties for some time.

5. While answering two of the six charges, one for unauthorized absence and another for misappropriation, the disciplinary authority imposed a punishment of removal from service on the writ petitioner. Insofar as unauthorized absence is concerned, the periods of 25 days and 30 days are subsequently condoned by accepting the leave letters, since the writ petitioner pleaded that she was not feeling well.

6. Insofar as the other charge relating to misappropriation is concerned, what has been submitted is, after sales were made, the writ petitioner has failed to remit the sale amount collected from the Credit Purchasers in the credit sales effected during Special Deepavali Sales, 1998 at the Depot at Kundadam Panchayat Union. In that view of the matter, the learned single Judge has ordered to reinstate the writ petitioner with continuity of service, but without backwages. The learned single Judge also has observed that if the writ petitioner had already reached the age of superannuation, she is entitled for terminal benefits as well as other benefits. It appears that though the writ petition was disposed of in the year 2011, the said order was not implemented by settling the terminal benefits and other benefits.

7. Now, the learned counsel appearing for the writ petitioner seeks for payment of some backwages, at least from the date of the order passed in W.P.No.12849 of 2006, till the date of retirement in the year 2014. However, the Department insisted that the amount was not timely recovered and paid. Moreover, it is submitted that insofar as declining of the backwages is concerned, the writ petitioner herself has conceded for the same.

8. Now, taking into consideration the fact that substantial amount of backwages has to be paid, while disposing of these two writ appeals, we hereby direct the authorities of the respondents/Khadi Board to settle the retirement benefits to the writ petitioner. Since it was canvassed that substantial amount of backwages has to be paid to the writ petitioner and since the order passed by the learned single Judge has not been implemented, though it was passed in the year 2011, it is for the respondents/Khadi Board to pay 50% of the backwages amount from the date of disposal of the above writ petition till the date of superannuation of



the writ petitioner and also to settle all the retirement benefits, within a period of three months from the date of receipt of a copy of this judgment. The period from the date of disposal of the writ petition till the date of superannuation will be counted for continuity of service, subject to condition that the respondents/Khadi Board shall pay 50% of backwages as directed above.

9. In view of the above discussions, the Writ Appeal No.2232 of 2011 filed by the Tamil Nadu Khadi & Village Industries Board shall stand dismissed confirming the order dated 26.07.2011, passed by the learned single Judge in W.P.No.12849 of 2006 and the Writ Appeal No.32 of 2014 filed by the writ petitioner is partly allowed on condition that the respondents/Khadi Board shall pay 50% of backwages from the date of disposal of the writ petition till the date of superannuation of the writ petitioner in the year 2014. The respondents/Khadi Board is also directed to pay all the terminal benefits and retirement benefits to the writ petitioner, within a period of three months from the date of receipt of copy of this judgment. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Chairman,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
2. The Chief Executive Officer,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
3. The Assistant Director/
Disciplinary Authority/Enquiry Officer,
Tamil Nadu Khadi & Village Industries Board,
Dharapuram now at Erode,
Erode - 638 001.

+1cc to Mr.P.Balamurali, Advocate Sr.No.2541

+1cc to Mr.S.K.Bose, Advocate Sr.No.2439

LRS (CO)

RRK:27.2.2018

W.A.Nos.32/2014 & 2232/2011