

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2018

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition Nos.27129 of 2006 and 695 of 2008 and  
M.P.Nos.1 and 2/2006 in W.P.No.27129/2006 and  
M.P.No.1/2008 in W.P.No.695/2008

J.Venugopal

... Petitioner in both W.Ps.

Vs.

1. The Chairman-cum-Managing Director,  
Tamil Nadu Civil Supplies Corporation Ltd.,  
Chennai-600 010.

2. The General Manager (Administration),  
Tamil Nadu Civil Supplies Corporation Ltd.,  
No.14, Thambusamy Road, Kilpauk,  
Chennai-10.

3. The Regional Manager,  
Tamil Nadu Civil Supplies Corporation Ltd.,  
Erode.

... Respondent in both W.Ps.

W.P.No.27129/2006 filed under Article 226 of the  
Constitution of India praying for the issuance of a Writ of  
Certiorari, calling for the records relating to the orders  
passed by the 3<sup>rd</sup> respondent in Na.Ka.No.2281/05/610 dated  
29.5.2006 and quash the same.

W.P.No.695/2008 filed under Article 226 of the Constitution  
of India praying for the issuance of a Writ of Certiorari,  
calling for the records relating to the order passed by the 2<sup>nd</sup>  
respondent in Proc.No.AD5/65406/05 dated 13.02.2006 as confirmed  
in Appeal before the 1<sup>st</sup> respondent in Proc.No.AD1/41363/2006  
dated 25.01.2007 and quash the same.

For petitioner : Mr.V.Stalin  
for Mr.M.Guruprasad

For respondents : Mr.K.Ravikumar,  
Addl. Govt. Pleader

## C O M M O N    O R D E R

Challenging the recovery order passed by the 3<sup>rd</sup> respondent in Na.Ka.No.2281/05/610 dated 29.5.2006 and the order of punishment passed by the 2<sup>nd</sup> respondent in Proc.No.AD5/65406/05 dated 13.02.2006 as confirmed in Appeal by the 1<sup>st</sup> respondent in Proc.No.AD1/41363/2006 dated 25.01.2007 against the petitioner, the present Writ Petitions have been filed.

2. The case of the petitioner is that he was working as Superintendent in the respondent Corporation and assigned to Godown Superintendent at Erode Godown. While so, on 26.4.2005, the Manager (Marketing), Head Office, surprisingly inspected the godown and noticed certain omissions on the part of the point clerks. Based on his report, the petitioner was placed under ad-interim suspension w.e.f. 05.05.2005 and charges were framed against him and after holding enquiry, the Enquiry Officer submitted his findings on 20.9.2005 by exonerating the petitioner from charge Nos.1 and 2 and held the petitioner responsible for Charge Nos.2, 4 and 5 holding that as there was a deficit in the stocks of the rice bags and lack of proper supervision on the part of the petitioner herein, there was a huge loss to the respondent Corporation. Thereafter, the Disciplinary Authority, namely, the 2<sup>nd</sup> respondent herein, after considering the Enquiry Officer's Report, differed from the same with regard to the Charge Nos.1 and 3, however, without notice, the Disciplinary Authority imposed the punishment of stoppage of increment for a period of one year with cumulative effect besides recovery of loss sustained by the Corporation from him, also ordered for recovery of Rs.5534/-. Challenging the order of punishment passed by the 2<sup>nd</sup> respondent which was confirmed by the 1<sup>st</sup> respondent Appellate Authority on appeal as well as the order of recovery passed by the 3<sup>rd</sup> respondent, the present Writ Petitions have been filed.

3. A Counter affidavit has been filed by the 3<sup>rd</sup> respondent in W.P.No.695/2008 inter alia stating that in fact, the 2<sup>nd</sup> respondent Disciplinary Authority in his Proceedings dated 13.2.2006 has discussed everything and narrated the facts whatever took place in the godown on 26.4.2005 as to what are the charges framed against the petitioner and after perusing the petitioner's explanation and the Enquiry Officer's Report, finally concluded that all the five charges were proved and imposed a punishment of stoppage of annual increment to the petitioner for a period of one year with cumulative effect, besides the recovery of loss suffered by the respondent Corporation. Aggrieved by the same, the petitioner preferred an appeal to the 1<sup>st</sup> respondent, who in turn, rejected the same by order dated 25.01.2007, by confirming the order of the 2<sup>nd</sup>

respondent. The 1<sup>st</sup> respondent has answered each and every ground and given valid reasons for rejecting the appeal.

4. Learned Counsel appearing for the petitioners submitted that though initially, the Enquiry Officer, after holding enquiry arrived at a conclusion that the charge Nos.1 and 3 were not proved, the Disciplinary Authority, without affording any opportunity of hearing to the petitioner, held that the Charge Nos.1 and 3 were also proved by drawing adverse inference against the petitioner, without any basis. The learned Counsel further submitted that now the petitioner is retired from service and his health is not so good to agitate his case before the Courts of Law. Hence prays to allow the present Writ Petitions.

5. Learned Additional Government Pleader appearing for the respondents submitted that the order of the Original Authority is confirmed by the Appellate Authority and as such, there is no infirmity or illegality in the said orders. Therefore, prays to dismiss the present Writ Petitions.

6. Considering the facts and circumstances of the matter and in order to fulfil the principles of natural justice, the punishment order of stoppage of annual increment for a period of one year with cumulative effect inflicted by the 2<sup>nd</sup> respondent herein which was confirmed by the 1<sup>st</sup> respondent in appeal is modified as "stoppage of annual increment to the petitioner for a period of one year without cumulative effect." However, it is made clear that this Court is not interfered with the recovery of the Revenue Loss of Rs.5534/- suffered by the respondent Corporation and accordingly, the petitioner is directed to pay the same to the respondent Corporation, if at all not paid earlier.

7. With the above modification, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS IX)

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Sub Assistant Registrar

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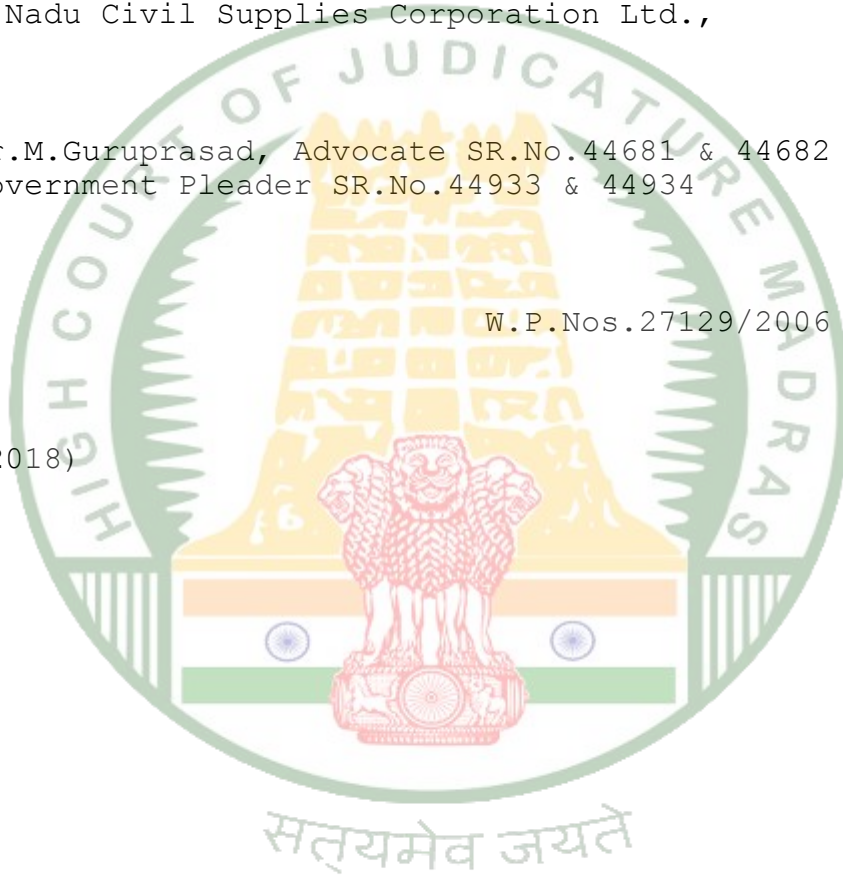
To

1. The Chairman-cum-Managing Director,  
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Chennai-600 010.
2. The General Manager (Administration),  
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No.14, Thambusamy Road, Kilpauk,  
Chennai-10.
3. The Regional Manager,  
Tamil Nadu Civil Supplies Corporation Ltd.,  
Erode.

+2cc to Mr.M.Guruprasad, Advocate SR.No.44681 & 44682  
+2cc to Government Pleader SR.No.44933 & 44934

W.P.Nos.27129/2006 & 695/2008

NA (CO)  
GN (24/07/2018)



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