BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.14957 of 2014
and
M.P.(MD).No.1 of 2014

A.Gopal ... Petitioner

Vs.

1. The Managing Director,
   Tamil Nadu Civil Supplies Corporation,
   No.12, Thambusamy Road,
   Kilpauk, Chennai-10.

2. The General Manager (Administration),
   Tamil Nadu Civil Supplies Corporation,
   No.12, Thambusamy Road,
   Kilpauk, Chennai-10.

3. The Regional Manager,
   Tamil Nadu Civil Supplies Corporation,
   Sivagangai Region,
   Sivagangai. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, call for the records relating to the impugned order passed by the third respondent vide Na.Ka.No.AC7/4915/2010 dated 28.07.2014 and quash the same and consequently direct the third respondent to pass necessary proceedings by making adjustment in respect of the above transaction of purchasing gunnies and exonerate the petitioner from the liability.

For Petitioner : Mr.D.ShanmugaRaja Sethupathi

For Respondents : Mr.R.Vijayakumar

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ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner is a retired Assistant Quality Inspector of Civil Supplies Corporation. He was responsible for purchasing empty gunnies from the Co-operative Society of Sivagangai region. The Disciplinary Authority issued a charge memo against the petitioner in this regard. Enquiry was conducted. The proceedings culminated on 20.05.2013. The second respondent passed an order of punishment imposing the stoppage of increment for three years with cumulative effect. He also ordered recovery of the loss caused by the delinquent.

4.The learned counsel appearing for the petitioner submits that the said order dated 20.05.2013 was challenged before the Authority. The appeal is still pending. He is not in a position to state the outcome of the appeal.

5.The learned Standing counsel appearing for the respondent Corporation has submitted on instructions that the penalty was modified to one of the stoppage of increment for three years. He would further submit that no interference was made as regards the direction to recover the loss to the Corporation. Since in main proceedings, there was a direction to recover the loss caused to the Corporation, the present collateral proceed were triggered against the petitioner.

6.By the impugned order, the second respondent had determined the amount payable by the petitioner at Rs.4,31,680/-. A mere look at the impugned order would show that before quantifying the loss said to have been caused by the petitioner, he was not given due opportunity. The issue certainly has civil consequences. Therefore, this Court is of the view that an opportunity of hearing ought to have been given to the writ petitioner. On this sole ground, the impugned order dated 28.07.2014 passed by the third respondent stands quashed. The matter is remitted to the file of the third respondent to pass orders afresh in accordance with law. The amount involved in this case is a sum of Rs.4,31,680-. The said amount can be retained by the respondent Corporation subject to the outcome of the proceedings against the petitioner. If there is any other amount over and above to the credit of the petitioner's retirement benefits, the same shall be disbursed forthwith.

7.The writ petition is allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

TO

1. The Managing Director,
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   Kilpauk, Chennai-10.

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   No.12, Thambusamy Road,
   Kilpauk, Chennai-10.

3. The Regional Manager,
   Tamil Nadu Civil Supplies Corporation,
   Sivagangai Region,
   Sivagangai.

Tsg
AE/JC/SAR1/31.01.2018/3P/4C

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