

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 2017 of 2013

&

M.P. No. 1 of 2013

The Chief Executive Officer,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam, Chennai - 600 108. ...Appellant

Vs.

R. Dhandapani ...Respondent

Prayer: Writ Appeal as against the order dated 03.04.2013
passed in W.P. No. 6300 of 2005.

W.P.6300/2005:

Writ Petition praying of Writ of Certiorarified Mandamus to
call for the records relating to the impugned order of the
respondent in Board Proceedings No.71 dated 6.12.2004 dated
6.12.2004 confirming the earlier order passed by the respondent
in Na.Ka.No. 48260/C3(2)/98 dated 24.09.2002 and quash the same
and direct the respondent to reinstate the petitioner in service
with an attendant benefits.

For Appellant :: Mr.S.K. Bose

For Respondent :: Mr.P. Rajendran

J U D G M E N T

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

The appellant initiated disciplinary proceedings against the
respondent and ultimately, he was removed from service. The
said order was challenged before the Writ Court in W.P. No. 6300
of 2005. The learned Single Judge allowed the writ petition with
a direction that the respondent will not be entitled to
backwages. The said order is the subject matter of this intra-
court appeal preferred by the Tamil Nadu Khadi and Village
Industries Board.

2. This Court, taking into account the factual matrix, passed the following order on 12.03.2019:

"The learned Single Judge allowed the writ petition filed by the respondent and the order removing him from service was set aside. Feeling aggrieved the appellant has come up with this intra court appeal.

2. The learned Single Judge found certain procedural violations while conducting enquiry as well as the appellate proceedings. The learned Single Judge therefore interfered with the punishment imposed by the Disciplinary Authority.

3. When it was pointed out that in case the procedure was not followed the appropriate remedy was only to set aside the order and send back the case either to the Disciplinary Authority or to the Appellate Authority for deciding the matter afresh, the learned counsel for the respondent submitted that the respondent is presently aged about 70 years and it would not be in his interest to remit the matter to the Disciplinary Authority or to the Appellate Authority for fresh consideration.

4. The respondent is stated to be aged about 70 years now. There is no question of remitting the matter back to the Disciplinary Authority or to the Appellate Authority for deciding the issue afresh at this point of time. We are therefore of the view that the punishment imposed on the respondent by the Disciplinary Authority must be modified taking into account the serious infirmities pointed out by the writ court.

5. When this was pointed out, the learned counsel for the respondent fairly submitted that the respondent is agreeable for modifying the punishment into one of compulsory retirement.

6. The learned Additional Advocate General also fairly submitted that a decision would be taken, in view of the submission made on behalf of the respondent.

7. We, therefore, direct the appellant to take a decision with regard to the modification of the punishment by converting the order of dismissal into one of compulsory retirement and fix the pension as provided under Rule 39 of the Tamil Nadu Pension Rules, 1978. Such exercise shall be completed on or before 19.03.2019. The order modifying the punishment should be produced before this Court on 20th March, 2019.

8. Post the appeal on 20th March, 2019."

3. When the appeal is taken up for hearing today, learned Standing Counsel for the appellant produced a copy of the proceedings dated 19.03.2019 modifying the punishment of removal from service imposed on the respondent into one of compulsory retirement.

4. The learned counsel for the respondent, on instructions, submitted that the respondent is also accepting the said order modifying the punishment.

5. We direct the appellant to fix the pension of the respondent in accordance with Rule 39 of Tamil Nadu Pension Rules, 1978 and to pay all the terminal benefits and arrears of pension, due to him, on or before 31st May, 2019. It is needless to mention that payment of pension shall be made on future dates as well.

6. The intra-court appeal is disposed of with the above direction. No costs. Connected M.P. is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

The Chief Executive Officer,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam, Chennai - 600 108.

+1 CC to Mr.Rajendran, Advocate sr 26553.

W.A. No. 2017 of 2013

MG(CO)
SP(10/04/2019)

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