

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.1290 of 2003, 35222 of 2004,
16520 of 2005 and 45102 of 2006 and
W.P.M.P.Nos.42449 of 2004, 2144 of 2006 &
M.P.No.1 of 2006

R.Sarangapani ... Petitioner in all W.Ps.

Vs.

- 1.The Senior Regional Manager,
The Tamilnadu Civil Supplies Corporation Limited,
Cuddalore Region, Semmandalam,
Cuddalore - 607 001.
- 2.The Chairman cum Managing Director,
The Tamilnadu Civil Supplies Corporation Limited,
42, Thambuswamy Road, Chennai - 600 010. ... Respondents
in W.P.No.1290 of 2003

- 1.The Chairman-cum-Managing Director,
The Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.
- 2.Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvapur Region, Thiruvapur.
- 3.Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region, Semmandalam,
Cuddalore. ... Respondents
in W.P.No.35222 of 2004
- 1.The Chairman and Managing Director,
The Tamil Nadu Civil Supplies Corporation,
Kilpauk, Chennai - 600 010.

- 2.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Tiruvapur Region, Tiruvapur.

3.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region, Semmandalam,
Cuddalore.

... Respondents
in W.P.No.16520 of 2005

1.The Chairman and Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

2.The General Manager Administration,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region, Cuddalore - 2.

... Respondents
in W.P.No.45102 of 2006

Prayer in W.P.No.1290 of 2003: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorari calling for the records relating to the proceedings O.M.A.11/11937/02 dated 05.11.2002 of the first respondent herein, quash the same.

Prayer in W.P.No.35222 of 2004: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorari calling for the records relating to the order passed in RC.No.M9/65994/95 dated 7th January 2003 on the file of the Chairman and Managing Director, Tamil Nadu Civil Supplies Corporation Ltd. the first Respondent and quash the same.

Prayer in W.P.No.16520 of 2005: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus directing the 1st Respondent to include the petitioner's name in the panel of Assistant Manager in the 1st Respondent Corporation after placing him in the Selection Grade.

Prayer in W.P.No.45102 of 2006: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus calling for the records of the first respondent in AE4/68685/2006 dated 24.08.2006 and quash the same and direct the respondents to elevate the petitioner to Selection Grade/Special Grade from the present

position as Superintendent in Cuddalore Region and direct the payment of arrears of pay and allowances admissible to the Selection Grade/Special Grade, Superintendent.

W.P.No.1290 of 2003:

For Petitioner	:	Mr.R.Srinivas
For R1	:	Mr.L.P.Shanmugasundaram
For R2	:	Mr.V.Selvanayagam

W.P.No.35222 of 2004:

For Petitioner	:	Mr.R.Srinivas
For Respondents	:	Mr.C.Selvaraj

W.P.No.16520 of 2005:

For Petitioner	:	Mr.R.Srinivas
For Respondents	:	Mr.V.Selvanayagam

W.P.No.45102 of 2006:

For Petitioner	:	Mr.R.Srinivas
For RR1 & 2	:	Mr.V.Selvanayagam
For R3	:	Mr.L.P.Shanmugasundaram

COMMON ORDER

W.P.No.1290 of 2003 is filed challenging the proceedings of the first respondent dated 05.11.2002 made in O.M.A.11/11937/02.

2.W.P.No.35222 of 2004 is filed challenging the order of the first respondent dated 07.01.2003 made in RC.No.M9/65994/95.

3.W.P.No.16520 of 2005 is filed for a direction to the 1st Respondent to include the petitioner's name in the panel of Assistant Manager in the 1st Respondent Corporation after placing him in the Selection Grade.

4.W.P.No.45102 of 2006 is filed challenging the order of the first respondent made in AE4/68685/2006 dated 24.08.2006 and to direct the respondents to elevate the petitioner to Selection Grade/Special Grade from the present position as Superintendent in Cuddalore Region and direct the payment of arrears of pay and allowances admissible to the Selection Grade/Special Grade, Superintendent.

5.The issue in all the Writ Petitions are interlinked and hence disposed of by this common order. The parties are referred to as per their rank in W.P.No.35222 of 2004.

Facts of the case:

6.While the petitioner was working as Double Lock Officer [hereinafter referred to as "DLO"] Superintendent of Thiruvavur sub-region, charge memo were issued to him. In the charges, it was alleged that the petitioner has not completed hulling process of Kuravai'93 and Samba'93 within the time limit fixed by the authority. The petitioner alleged to have issued more quantity of paddy to hulling agent than the value of security deposit furnished by the hulling agent. He has received a sum of Rs.2,10,760/- from the representative of the hulling agent but deposited only a sum of Rs.44,596.25 on 30.09.1995 and misappropriated the amount of the respondent-Corporation to the tune of Rs.1,66,163.75. The petitioner was responsible for the loss of paddy. The petitioner denied all the charges leveled against him.

6(a).According to the petitioner the hulling agent, in collusion with six persons, especially the Assistant Manager of the respondent Corporation removed the paddy worth Rs.1,66,163.75 from Modern Rice Mill without the knowledge of the petitioner. On inspection, it was found that the hulling agent has not take paddy but a theft was committed on the way. The petitioner was directed to recover the paddy. The petitioner could not recover the paddy to the value of Rs.1,66,163.75. The petitioner has not misappropriated the amounts and has not caused any loss to the respondent corporation. Not being satisfied with the explanation, the second respondent ordered domestic enquiry.

6(b).After conducting domestic enquiry, the Enquiry Officer held that charges are proved against the petitioner. Based on the report of the Enquiry Officer, punishment of stoppage of increment for 1 year without cumulative effect was issued by the second respondent and recovery of Rs.1,66,163.75 was ordered. The petitioner filed appeal to the first respondent and the first respondent issued notice to the petitioner as to why the punishment imposed should not be enhanced. While the appeal proceeding was pending, the third respondent, to which place the petitioner was transferred, started recovering the amounts from the petitioner. The petitioner filed W.P.No.37917 of 2002 challenging the order of the first respondent and this Court by the order dated 07.10.2002 directed the first respondent to dispose of the appeal filed by the petitioner within a period of 3 months from the date of receipt of a copy of that order.

6(c).The petitioner filed W.P.No.1290 of 2003 challenging the proceedings of the third respondent recovering the amount while the appeal was pending before the first respondent. As per the direction of this Court dated 07.10.2002 in W.P.No.37917 of 2002, the first respondent by the order dated 07.01.2003 rejected the appeal filed by the petitioner. The petitioner filed W.P.No.35222 of 2004 challenging the order imposing the punishment. This Court admitted the Writ Petition and granted interim stay on 07.12.2004. In view of the interim stay granted by this Court, the third respondent stopped recovering the amounts from the petitioner.

6(d).Pending W.P.Nos.1290 of 2003 and 35222 of 2004, the petitioner has filed W.P.No.16520 of 2005 for a Writ of Mandamus directing the first respondent to include the petitioner's name in the panel of Assistant Manager in the first respondent Corporation after granting him Selection Grade. By the order dated 24.08.2006 the first respondent rejected the request of the petitioner for granting Selection Grade and Special Grade. The petitioner has filed W.P.No.45102 of 2006 challenging the said order.

7.The learned counsel appearing for the petitioner contended that the petitioner has not committed any misconduct and for the very same incident two charges were issued. For the first charge memo, the punishment of warning was imposed and for other charge memo the punishment of stoppage of increment for one year without cumulative effect was ordered and recovery of sum of Rs.1,66,163.75 was ordered. The petitioner was concentrating in the hulling process, in order to complete the hulling process within time limit fixed by the respondents. Due to tension, the hulling agent in collusion with others have removed the paddy worth Rs.1,66,163.75. Subsequently the hulling agent returned the paddy, but a theft was committed and petitioner could not recover the paddy but paid the value of the paddy and he did not commit any misappropriation of the amounts paid by the hulling agent. Without giving opportunity to the petitioner to examine the witnesses, the Enquiry Officer gave a report that charges leveled against the petitioner were proved. In the appeal filed by the petitioner, the first respondent did not consider the objections raised by the petitioner but confirmed the order of the second respondent.

8.The learned counsel appearing for the petitioner further contended that in respect of W.P.No.1290 of 2003, the recovery made pending appeal before the first respondent is illegal and prayed for setting aside the said order and refund of the

amounts. As far as the denial of granting Selection Grade and Special Grade is concerned, the learned counsel for the petitioner contended that the imposition of punishment of warning is not a ground for denying the Selection Grade and Special Grade. The punishment of disciplinary proceedings is also not a ground for denying Selection Grade and Special Grade. On completion of 10 years and 20 years, the petitioner is entitled to be awarded Selection Grade and Special Grade. For the above reason, the petitioner prayed for allowing all the Writ Petitions setting aside the punishment as confirmed by the first respondent.

9.Per contra Mr.L.P.Shanmugasundaram, learned counsel appearing for the first respondent in W.P.No.1290 of 2003 and third respondent in W.P.No.45102 of 2006, Mr.V.Selvanayagam, learned counsel appearing for the second respondent in W.P.No.1290 of 2003, for respondents in W.P.No.16520 of 2005 and for respondents 1 and 2 in W.P.No.45102 of 2006 and Mr.C.Selvaraj, learned counsel appearing for the respondents in W.P.No.35222 of 2004 separately contended that the first respondent has considered the appeal on merits, files relating to the disciplinary proceedings and the order of the Disciplinary Authority and has given valid reason for rejecting the appeal. It is not correct to state that the first respondent without any reason confirmed the order of the second respondent. Mr.C.Selvaraj, learned counsel appearing for the respondents in W.P.No.35222 of 2004 filed typed set of papers and referred to the duties and responsibilities of the DLO. The learned counsels appearing for the respondents contended that the petitioner has not made out any case for setting aside the punishments imposed on him. The petitioner having received a sum of Rs.2,10,760/- from the hulling agent ought to have directed the hulling agent to deposit the entire amount in the Treasury to the credit of the respondents. The petitioner received entire amount, but credited only a sum of Rs.44,896.25 and misappropriated a sum of Rs.1,66,163.75. For loss of paddy, as per rules, recovery should be double the amount for the loss from the person who was responsible for the loss. In the present case before any decision can be taken, the petitioner by private arrangement has paid a sum of Rs.1,66,163.75. This is a serious misconduct committed by the petitioner. The punishment imposed is appropriate to the serious misconduct committed by the petitioner and the punishment imposed is valid and legal and recovery made by the third respondent is valid.

10.As far as granting Selection Grade and Special Grade are concerned, a person is entitled to be granted Selection Grade and Special Grade on completion of 10 years and 20 years

respectively without suffering any punishment during the said period. In the present case, the petitioner has suffered punishment in the year 1989. The Selection Grade and Special Grade will be granted only after satisfactory service of 10 years and 20 years respectively. Mr.C.Selvaraj, learned counsel appearing for the respondents in W.P.No.35222 of 2004 filed typed set of papers and referred to various punishment imposed on the petitioner and contended that the petitioner has suffered various punishments. The petitioner is an habitual offender and he is not entitled for any Selection Grade and Special Grade and prayed for dismissal of all the Writ Petitions.

11.Heard the learned counsel appearing for the petitioner as well as the learned counsels appearing for the respondents in all the Writ Petitions and perused the entire materials on record.

12.The main contention of the learned counsel appearing for the petitioner with regard to imposition of punishment is that the petitioner was not given opportunity to examine the witnesses and that the first respondent dismissed the appeal filed by the petitioner confirming the order of the second respondent without considering the objections raised by the petitioner. From the materials available on record it is seen that there is nothing on record to show that the petitioner sought for an opportunity to examine the witnesses and the same was rejected by the Enquiry Officer. In the appeal filed by the petitioner, he raised various grounds to set aside the order of punishment imposed by the second respondent. The first respondent has called for the file relating to the domestic enquiry, considered the objections raised by the petitioner in appeal and by giving valid reason rejected the appeal. It is well settled that when the Appellate Authority confirmed the order of the Disciplinary Authority, there is no necessity to give elaborate reasons, but can give sound reasons for not accepting the same. In the present case, the Appellate Authority has given reason for rejecting the appeal filed by the petitioner which are not erroneous.

13.For the above reason, W.P.No.35222 of 2004 is dismissed. In view of dismissal of W.P.No.35222 of 2004, W.P.No.1290 of 2003 is also dismissed.

14.As far as W.P.No.16520 of 2005 is concerned, it is filed for a direction to the 1st Respondent to include the petitioner's name in the panel of Assistant Manager in the 1st Respondent Corporation after placing him in the Selection Grade. In view of the order dated 24.08.2006 rejecting the request of the

petitioner, W.P.No.16520 of 2005 has become infructuous. Therefore, W.P.No.16520 of 2005 is dismissed as infructuous.

15.As far as W.P.No.45102 of 2006 is concerned, it is filed challenging the order of the first respondent made in AE4/68685/2006 dated 24.08.2006 and to direct the respondents to grant the petitioner Selection Grade/Special Grade from the present position as Superintendent in Cuddalore Region and direct payment of arrears of pay and allowances admissible to the Selection Grade/Special Grade, Superintendent. The learned counsel appearing for the petitioner contended that for the misconduct, the petitioner cannot be denied for Selection Grade and Special Grade on completion of 10 years and 20 years of service respectively and punishment imposed or pendency of the disciplinary proceedings will not be a reason for denial of granting Selection Grade and Special Grade. On the contrary, the learned counsels appearing for respondents separately contended that the petitioner is an habitual offender and Selection Grade and Special Grade can be granted only on completion of satisfactory service of 10 years and 20 years respectively. The contention of the learned counsel appearing for the petitioner is that petitioner completed 10 years of service on 01.04.1995 and there was no currency of punishment and no disciplinary proceedings was pending and therefore petitioner is entitled for Selection Grade. The learned counsels appearing for the respondents submitted that on 01.04.1995 disciplinary proceedings initiated against the petitioner was pending and the punishment of censure was issued on 04.10.1995. In view of the same, W.P.No.45102 of 2006 is dismissed.

16.In the result, W.P.Nos.1290 of 2003, 35222 of 2004 and 45102 of 2006 are dismissed and W.P.No.16520 of 2005 is dismissed as infructuous. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

2.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvavarur Region, Thiruvavarur.

3. The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region, Semmandalam,
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4.The General Manager Administration,
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12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

5.The Chairman and Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

6.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region, Cuddalore - 2.

+1 cc to M/s.C.Selvaraj, Advocate Sr.No. 71919
+4 cc to M/s.R.Srinivas, Advocate Sr.No. 71347 to 71350
+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No.72033

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W.P.Nos.1290 of 2003, 35222 of 2004,
16520 of 2005 and 45102 of 2006

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