

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :23.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.27284 of 2019
&
W.M.P.Nos.26711 & 26714 of 2019

G.Kannan

..Petitioner

vs

- 1.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
The Appellate Authority,
No.12, Thambusamy Road,
Kilpauk, Chennai.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvavarur.
- 3.Deputy Manager, (Accounts)
Thiruvavarur Division,
Thiruvavarur,
- 4.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Salem.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent relating to the impugned consolidated order passed in Na.Ka.No.SL4/2472/2015 dated 28.02.2019, for recovery of Rs.22,18,359/- for storage loss for the period from 2014 to 2015 based on show cause notices, and together with the communication of the first respondent vide their letter dated 22.07.2019 and to quash the same as illegal and further direct the first respondent to consider the petitioner's appeal and to dispose of the same within a prescribed period.

For Petitioner : M/s.Senthil Vadivu

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is to call for the records of the second respondent relating to the impugned consolidated order passed in Na.Ka.No.SL4/2472/2015 dated 28.02.2019, for recovery of Rs.22,18,359/- for storage loss for the period from 2014 to 2015 based on show cause notices, and together with the communication of the first respondent vide their letter dated 22.07.2019 and to quash the same as illegal and further direct the first respondent to consider the petitioner's appeal and to dispose of the same within a prescribed period.

2. By consent of both the parties, the Writ Petition is taken up for final disposal.

3. The case of the petitioner is that he is working as Assistant Quality Inspector in the respondent-Civil Supplies Corporation. While discharging his duties, the second respondent issued show cause notices against the petitioner and another person one R.Balasubramaniam, alleging that each caused storage loss of paddies to the tune of Rs.22,18,359/- to the Tamil Nadu Civil Supplies Corporation for the period between 2014 and 2015. The storage loss ordered to be recovered, which was calculated in each 148 cases and that the show cause notices were issued by the second respondent, demanding recovery of the amount equivalent to the loss. Thereafter, the petitioner submitted his detailed reply to the said show cause notices, and explained that the paddies purchased and stocked only in the open storage godown and the same were germinated and sprouted during the rainy season, which has been resulted in loss of weight.

4. The respondent-Civil Supplies Corporation is being well aware of the difficulties for routine losses on various heads, such as moisture content, sprouted paddy, germinated paddy and unscientific open godown for road movements and natural decomposition etc. The storage loss had occurred only due to the natural decompositions. However, the respondent-Corporation issued show cause notices against the petitioner and the another person, in respect of 148 cases and that the total recovery of amount had been divided equally and for each Rs.22,18,359/- sought to be recovered. The petitioner submitted a detailed explanation to the show cause notices, which were not considered by the respondent-Corporation. However, the respondent-Corporation did not conduct any enquiry proceedings regarding the issue and passed consolidated recovery orders for 148 cases,

dated 28.02.2019 and directed to serve the orders to the petitioner.

5. Aggrieved by the said order, the petitioner preferred an appeal before the first respondent. However, the first respondent rejected the appeal vide communication dated 22.07.2019, on the ground that the petitioner ought to have filed separate appeal for each 148 cases. Therefore, the present Writ Petition has been filed.

6. The learned counsel for the petitioner would submit that the order for recovering the loss amount for 148 cases was passed in a consolidated order dated 28.02.2019 and no separate orders were issued for each 148 cases. Therefore, the ground for filing separate appeals for each cases does not arise. Hence he prayed this Court to give direction to the respondents to pass orders on the appeal filed by the petitioner.

7. Mr.L.P.Shanmugasundaram, learned Special Government Pleader would submit that the matter may be remitted back to the authorities concerned to pass appropriate orders.

8. Heard the counsel and perused the records.

9. Initially, 148 show cause notices were issued to the petitioner and the second respondent vide consolidated order dated 28.02.2019 directed the petitioner to pay the loss to the tune of Rs.22,18,359/-. However, the appeal filed by the petitioner was rejected solely on the ground that separate appeals were not filed against each cases. Since common order has been passed by the second respondent, there is no necessity to file separate appeal for each cases.

10. In view of the above, the order passed by the appellate authority in rejecting the appeal is set aside. Accordingly, the matter is remitted back to the authorities concerned to pass appropriate orders, after affording due opportunity to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

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11. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (Insp Cell)

/true copy/

Sub Asst. Registrar

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To

1.The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
The Appellate Authority,
No.12, Thambusamy Road,
Kilpauk, Chennai.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvarur.

3.Deputy Manager, (Accounts)
Thiruvarur Division,
Thiruvarur,

4.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Salem.

+1 cc to M/s.M.Senthil vadivu Advocate sr81663

+1 cc to M/s.L.P.Shanmugasundaram Advocate sr81989

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