



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.10118 of 2010

V.Krishnan

.. Petitioner

Vs.

- 1.The Board of Tamil Nadu Khadi & Village Industries,
Kuralagam,
Chennai - 108.
- 2.The Secretary to Government,
Handlome, Handicrafts, Textiles and Khadi Department,
Secretariat, Chennai.
- 3.The Chief Executive Officer,
Khadi and Village Industries,
Kuralagam, Chennai - 108.
- 4.The Assistant Director,
Khadi and Village Industries,
Collectorate Complex,
Virudhunagar.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No.19537/2001/23(1), dated 12.09.2002, and the same was confirmed by the 1st respondent in his proceedings Khadhi Board (MS).No.76, dated 07.12.2004 and quash the same consequently directing the 3rd respondent to re-fix the petitioner's pension.

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondents : Mr.Raguvaran Gopalan for
RR 1, 3 & 4
Mr.M.Jeyakumar for R2
Additional Government Pleader

ORDER

This writ petition is filed to quash the proceedings of
third respondent, dated 12.09.2002 which was confirmed by the
<https://hcservices.ecourts.gov.in/hcservices/>



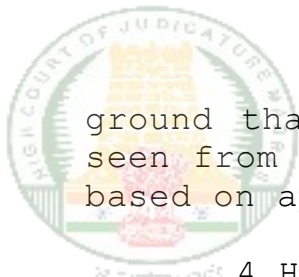
first respondent by his proceedings dated 07.12.2004 and to direct to release the petitioner's pension.

2.The brief facts that are necessary for the disposal of this writ petition are as follows:

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The petitioner was working as a Supervisor in Tamilnadu Khadhi and Village Industries Board in Kandamanur Branch. A charge memo was issued to the petitioner on 01.06.1996. Thereafter, two sets of different charges were also framed against the petitioner by the Regional Deputy Director (Khadhi and Village Industries), Madurai, as per charge memos dated 10.09.2001 and 05.11.2001 regarding improper maintenance of account and belated remittance of electricity charges, thereby temporarily misappropriated Board funds etc. It is admitted that after the petitioner's explanation, an Enquiry officer was appointed. After holding independent enquiry in respect of all the charges framed against the petitioner, it is stated that the disciplinary authority issued second show cause notice calling for explanation from the petitioner. Thereafter, the third respondent passed an order imposing punishment of compulsory retirement with payment of 2/3rd of gratuity and pension. The period during which the petitioner was suspended from service was also regularised as his eligible period without pay. Apart from the punishment of compulsory retirement and deduction of 1/3rd of gratuity and pension, the amount which was found to be due from the petitioner to the society was also ordered to be recovered from his pensionary benefits. Challenging the order of third respondent, the petitioner preferred an appeal before the second respondent, who has forwarded the matter to the first respondent and the first respondent rejected the appeal. Challenging the order of first respondent confirming the order of third respondent the above writ petition is filed.

3.Though several grounds were raised by the petitioner while challenging the impugned orders of the respondents 1 and 3, learned counsel for the petitioner submitted that the third respondent has failed to consider his objections. It is stated by the petitioner that the charges found against the petitioner was construed as an act of misappropriation based on shortage of stocks. The petitioner however, submitted that there was no shortage of products and that the deficiency was on account of several goods being unaccounted because of damages or for other reasons as the products could not be sold in market. Though the charges against the petitioner would reveal that the petitioner has committed serious irregularities apart from misappropriation of funds, even from the explanation offered by the petitioner, it can be seen that the petitioner has admitted misappropriation of funds and that the petitioner would only seek some discount on the



ground that the commodities should be taken as deficit. It is seen from the records that the findings of the enquiry officer was based on appreciation of evidence.

4. Having regard to the nature of charges and the evidence recorded during the proceedings of Enquiry Officer and the findings by the disciplinary authority, this Court has no reason to interfere with the findings on facts. The petitioner in this case, miserably failed to produce any record to substantiate his case or by producing documents which are relied upon by the third respondent to substantiate his contention that the findings are not based on materials or that the findings are contrary to the materials considered by the disciplinary authority.

5. Learned counsel for the petitioner submitted that the third respondent acted as the disciplinary authority as well as appellate authority in the sense that the third respondent also is a member of Board which considered the appeal filed by the petitioner against the order of third respondent. The position is clarified by the third respondent in the counter affidavit. The third respondent / Executive Officer of Khadhi and Village Industries is the disciplinary authority to impose punishment. However, the contention of the petitioner that he is also a member of the Board, to which the petitioner preferred the appeal, is not substantiated by any material. As pointed out by the third respondent in the counter affidavit, the appeal preferred by the petitioner originally to the second respondent was forwarded by the Government to the Board of Directors. It is further stated that the appeal was on 18.11.2004. The Board of Directors earlier stated that the appeal was rejected by the Board and the Board was of the opinion that no fresh grounds are raised to interfere with the order of disciplinary authority.

6. The case of the third respondent is that the Board of Directors consist of three I.A.S. Officers, one official in the cadre of Joint Secretary to Government and headed by the Honourable Minister of Rural Industries as the President of Board. Since the position is clarified, the submission of the learned counsel for the petitioner that the disciplinary authority was also a member to consider the appeal preferred before the Board is not accepted.

7. This Court has already pointed out that the order of disciplinary authority is well founded and not vitiated for any valid reason. Hence, this Court is not inclined to interfere with the order of third respondent which was confirmed by the first respondent Board. As a result, this petition is devoid of merits.



8.Hence, this writ petition is dismissed. No order as to costs.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

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To

1.The Board of Tamil Nadu Khadi & Village Industries,
Kuralagam,
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4.The Assistant Director,
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+1 CC to M/s.SPL GP (SR-96341[F] dated 06/11/2019)

+1 CC to M/s.S.M.MOHAN GANDHI, Advocate (SR-96403[F] dated 06/11/2019)

+1 CC to M/s.RAGUVARAN GOPALAN, Advocate (SR-96761[F] dated 07/11/2019)

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