



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.12667 of 2011

Mr.E.R.Sugumaran

... Petitioner

vs.

Managing Director,
Tamil Nadu Civil Supply Corporation,
12, Thambusamy Street,
Kilpauk,
Chennai-600 010.

... Respondent

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order dated 09.08.2011 No.AD3/8864/2011 passed by the respondent and to quash the same and to set aside the order stopping 6 month increment with cumulative effect and directing him to relieve the said amount with subsequent interest.

For Petitioner	: Mr.P.Sesubalan Raja
For Respondent	: Mr.D.Mayarajan

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to order dated 09.08.2011 No.AD3/8864/2011 passed by the respondent and to quash the same and to set aside the order stopping 6 month increment with cumulative effect and directing him to refund the said amount with subsequent interest.

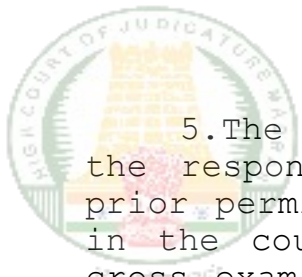
2.Learned counsel for the petitioner would submit that the petitioner retired as Assistant Engineer in the respondent corporation. He was allowed to retire on reaching the age of superannuation without prejudice to the pending departmental proceedings against him. When he was working as Assistant Engineer in Modern Rice Mill, Coimbatore, a civil suit in O.S.No.141 of 1998 was filed by the respondent against one M/s.Rajalakshmi Paper Mills Ltd., to recover a sum of Rs.4,34,062.90/- towards damages for the loss sustained by the corporation due to contractual violation of the said paper mill. The case of the corporation was that M/s.Rajalakshmi Paper Mills entered into a contract with the corporation on 08.02.1995 to remove the husk for the period between 01.01.1995 and 30.06.1995 at the rate of Rs.925/- per ton and they had failed to perform their part of the contract thereby caused loss of Rs.4,34,062.90/- to the corporation. Hence, the respondent corporation filed the above suit before the Sub Court, Udumalaipet. According to the petitioner, he had worked in some other place during the above period and he did not have any personal knowledge



about the contract with the said paper mill and the alleged loss sustained by the corporation due to the contractual violation of the above mill.

3. It is further submitted that the petitioner has joined duty as Assistant Engineer in Modern Rice Mill, Coimbatore Region on 08.08.2002 and at that time, the suit filed by the respondent corporation had come up for trial and he was instructed by the higher officials to tender evidence as PW2 and one Mr. Jeyapal was examined as PW1 in the matter. The said Jeyapal was working as Assistant in the business section of Modern Rice Mill, Coimbatore Region, from June 1999 to October 2004 and only during his tenure, the relevant records of the above contract were destroyed on the ground that they were more than three years old. When the petitioner was instructed to tender evidence, no document was available in respect of the particular period and he had to admit the same at the time of cross examination. Ultimately, the suit was dismissed. Against the dismissal of the suit, the corporation had not preferred any appeal, as the Government Pleader opined that it is not a fit case for appeal, but had issued a charge memo against the petitioner stating that he had given adverse evidence stating that the documents were not available and only because of his statement, the suit was dismissed. It is the contention of the learned counsel for the petitioner that the persons who were working during the relevant period namely, Jeyapal and Amarnath were left scot-free but the charge memo was issued only against the petitioner and thereafter, departmental enquiry was conducted against him.

4. It is further stated by the learned counsel for the petitioner that initially, departmental enquiry was conducted by a person who was in the same rank of the petitioner and therefore that was challenged by the petitioner and subsequently the Senior Regional Manager of the Corporation, Coimbatore, had been appointed to conduct the enquiry and he framed five charges against the petitioner and after detailed enquiry, he discharged the petitioner of all the charges, but unfortunately the General Manager of the corporation who is the disciplinary authority had passed the final order differing with the finding of the enquiry officer in respect of charges 1, 2 and 4 and sought explanation from the petitioner and the petitioner submitted his explanation, but without taking into consideration the explanation, punishment of stoppage of increment for six months with cumulative effect was imposed by the General Manager, against which, an appeal was filed and the appellate authority confirmed the order of the disciplinary authority by passing the impugned order. According to the petitioner, the appellate authority had not applied his mind individually and mechanically passed the impugned order without assigning any reasons and therefore, the order is liable to be set aside. Thus, he would pray for allowing the writ petition.



5.The respondent filed counter affidavit. Learned counsel for the respondent would state that the petitioner failed to obtain prior permission from his superior officers before filing of proof in the court and gave wrong information in the court during his cross examination that no document was available in respect of the above contract period and the same was destroyed. According to the respondent, the relevant documents were maintained in the Modern Rice Mill, Pollachi. However, the civil suit was dismissed observing that no records were produced by the management to prove the case and the adverse statement of the petitioner. Thereafter, steps were taken to get legal opinion from the Government Pleader to file appeal. In the meantime, the said Jayapal who was working in the concerned department during the relevant period retired from service on 31.10.2004 and therefore, no disciplinary proceedings were initiated against him. According to the respondent, only because of the negative evidence of the petitioner, the suit was dismissed thereby the petitioner caused loss to the corporation and therefore disciplinary proceedings were initiated against him.

6.It is further submitted that the petitioner neither created any written documents against Thiru.Amarnath, formerly Assistant Engineer of Modern Rice Mill, nor sent any report to the regional office to take action against him. Only after providing full opportunity to the petitioner in the enquiry and following the principles of natural justice, the General Manager passed the order imposing the punishment of stoppage of increment for six months with cumulative effect and the appellate authority also after considering the grounds of appeal filed by the petitioner rightly dismissed the appeal as devoid of merits. Thus, he would pray for dismissal of the writ petition.

7.Heard both sides.

8.It is unfortunate that the authorities have initiated the disciplinary proceedings against the petitioner for stating the truth before the court that the records had been destroyed. Admittedly, the records have been destroyed and the person in whose period the records were destroyed also retired from service. It is also admitted that during the period of delinquency, the petitioner was not working in the concerned department and the persons who had been working in the concerned department namely, Jeyapal and Amarnath were left scot-free and the disciplinary proceedings had been initiated only against the petitioner for the reason that he has deposed before the court the truth that the records have been destroyed which is unknown to law and the corporation had not filed any appeal against the dismissal of the suit. Without producing



the relevant documents before the court, the corporation cannot blame the petitioner for giving evidence before the court that the document was not available and consequently cannot hold him liable for the dismissal of the case. Therefore, I am inclined to interfere with the impugned order.

Accordingly, the order dated 09.08.2011 No.AD3/8864/2011 passed by the respondent is quashed and the writ petition is allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To
The Managing Director,
Tamil Nadu Civil Supply Corporation,
12, Thambusamy Street,
Kilpauk,
Chennai-600 010.

+1 CC to M/s.D.MAYARAJAN, Advocate (SR-104814[F] dated 13/12/2019)
+1 CC to M/s.P.SESUBALAN RAJA, Advocate (SR-104834[F]
BALA
SMA/02/01/2020/4P/4C

ORDER MADE IN
W.P(MD)No.12667 of 2011
DATED : 12.12.2019