



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.7714 of 2017 and  
W.M.P.Nos.8429 and 8430 of 2018

K.Thirumurugan  
Petitioner

..

Vs

The Additional Chief Secretary  
Industries Commissioner and  
Director of Industries and Commerce,  
SIDCO, Guindy,  
Chennai-600 032.

..

Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in Rc.No.26884/EG2/2013 dated 15.12.2016 on the file of the respondent and quash the same.

For Petitioner : Mr.A. Immanuel

For Respondent : Mr.S. Thangavel  
Special Government Pleader

-----

ORDER

This writ petition has been filed by the writ petitioner seeking to call for the records in Rc.No.26884/EG2/2013 dated 15.12.2016 on the file of the respondent and quash the same.

2. The case of the petitioner is that he was working as Principal, Institute of Ceramic Technology, Vridhachalam. The respondent has issued the copy of the show cause notice dated 20.11.2013 served on petitioner on 19.11.2014 under Rule 17 (a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, in respect of rent collection Rs.9.93 lakhs for seven months upto October 2013 as against the annual target of Rs.62.33 lakhs which is only 16% of the target. The monthly rent collection is



also very low and above Rs.1 lakh in many months, which is much less than the current monthly demand of Rs.1,63,000/- and that he has not turned up for office on 21.09.2013 during the visit of the Secretary to Government, MSME Department to Institute of Ceramic Technology and Government Industrial Estate for Ceramics, Vridhachalam and that the Court case period rental arrear collection is very poor. During the month of June 2013, it was only Rs.21/- and no amount was collected during the months of August and September 2013 and only Rs.1,000/- was collected during the month of October, 2013. It is also further submitted that he has failed to receive the rent of Rs.3,100/- and Rs.15,000/- paid by M/s.United India Ceramics and M/s.Sriram Ceramics respectively and issue them cash receipts in time. In respect of first charge, the petitioner, vide his letter dated 04.03.2015 requested a copy of document No.4; details of action taken against Thiru.V.K.Perarulalan, Former Administrative Officer, during the period 11.07.1998 to 07.08.2008, on the letter of the Administrative Officer to the Commissioner, vide letter No.82/IE/2008 dated 25.08.2008, 04.09.2008 and 01/IE/2015 and 17.02.2015. The respondent vide his letter dated 29.03.2016 informed the petitioner that the above document is not relevant to the charge. It is further stated that the petitioner requested for copy of document Nos.6,7,8 and 9 and a copy of the letter in which the annual target was fixed for rent collection for the years 2013-2014 and 2014 -2015, which were furnished. As per these documents, annual rent collection target is Rs.19,54,332.00, whereas, the collection is Rs.9,66,429.00 which is 84.77% of annual target. It is also further stated that only copy of the show cause notice dated 20.11.2013 was served on the petitioner on 19.11.2014 after one year. The petitioner called for copy of documents vide his letter dated 04.03.2015 and vide subsequent three reminders dated 29.06.2015, 18.08.2015 and 01.02.2016. But the respondent passed the impugned order withholding increment for one year without cumulative effect, without even giving enough opportunity to the petitioner and the impugned order dated 15.12.2016 passed by the respondent in Rc.No.26884/EG2/2013 suffers from violation of the principles of natural justice.

3. Heard both sides and perused the materials available on record.

4. It is seen that the writ petitioner challenges the order passed by the respondent in respect of collection of rental arrears. In the aforesaid order, it has been clearly mentioned that if the petitioner is aggrieved, he can prefer appeal before the Secretary to Government, MSME, Department, Chennai. According to the writ petitioner, he has made a representation to the respondent stating that he has to furnish a copy of the documents as mentioned in the charge memo by order dated



29.03.2016. It is also seen that the Industries Commissioner and Director of Industries and Commerce, Sidco Office Building, Guindy, Chennai - 600 032, rejected the request of the writ petitioner and he was directed to submit his explanation to the show cause notice dated 20.11.2013 within fifteen days of receipt of the memo and thereafter, an explanation was submitted by the petitioner on 11.04.2016. However, the impugned order was passed by the respondent in Rc.No.26884/EG2/2013 dated 15.12.2016. However, the writ petitioner made a representation to the respondent dated 29.09.2016. After forwarding the said representation by the petitioner, the petitioner has come forward with the present writ petition. Therefore, the petitioner has to file an appeal before the Secretary to Government, Small and Medium Scale Industries Department (MSME), Chennai, without exhausting the said remedy of appeal, the petitioner has preferred this Writ Petition.

5. Hence, this writ petition is dismissed, with liberty to the petitioner to submit his explanation to the charge memo within a period of four weeks from the date of receipt of a copy of this order and he has to prefer an appeal before the concerned authority to seek his remedy and to raise in all these grounds in this regard in the said appeal. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

msm

To

The Additional Chief Secretary  
Industries Commissioner and  
Director of Industries and Commerce,  
SIDCO, Guindy,  
Chennai-600 032.

+1 cc to Mr.A.Immanuel Advocate sr10663  
+1 cc to the Government Pleader sr11783

W.P.No.7714 of 2017

aa08/07/2020