BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **19.02.2020**
CORAM:
**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**
**W.P(MD)No.5968 of 2013**

K.P.Raviaraj ... Petitioner

Vs.

The Managing Director,
Tamil Nadu Text Book Corporation,
D.P.I. Campus,
College Road,
Chennai - 600 006. ... Respondent

**PRAYER:** Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the respondent in Se.Mu.Aa.No.9817/A/2010, dated 30.01.2013 and quash the same.

For petitioner : Mr.J.Barathan
For respondent : Mr.D.Muruganandham, Additional Government Pleader

**ORDER**

This writ petition has been filed by the petitioner challenging the order directing to recover 25% of the loss amount from the petitioner, as penalty.

2.The learned counsel for the petitioner submitted that the petitioner was appointed as Junior Assistant on 14.09.1981 and while he was working as Regional Officer, on 14.12.2010 he was suspended from service and by proceedings dated 29.12.2010, a charge memo was issued containing four charges as if he had incurred a monetary loss to the department to the tune of Rs.3,04,608.33/-. On attaining the age of superannuation ie., on 31.12.2010, the petitioner was not permitted to retire from service. After enquiry, the Enquiry Officer has held that except payment of Rs.100/- as fine amount for belated payment of telephone bill, the petitioner is liable to be exonerated from the charges. The petitioner submitted his further explanation on 11.05.2012. In the meantime, as the respondent did not settle the retirement benefits, the petitioner has filed W.P.(MD). No.16395 of 2012 and this Court, by order dated 08.01.2013, directed the respondent to pass final order in the disciplinary proceeding within a period of two weeks and to settle the terminal benefits, depending upon the outcome. Thereafter, the respondent has passed the impugned order of recovery of 25% of loss ie., Rs.64913/- as penalty from the retirement benefit of the petitioner. Challenging the said order, the petitioner has filed this writ petition.



3. The learned counsel for the petitioner would further submit that though the Enquiry Officer has held that the charges against the petitioner are not proved, the disciplinary authority has erroneously fixed 25% of liability on the petitioner holding that he has failed to supervise. The duty of the petitioner was only to forward reports placed before him and that the loss was caused by some other persons, who was in charge of the relevant post at the time of occurrence and therefore, the petitioner cannot be found fault with. However, the petitioner also fairly accepted that he has paid Telephone bill belatedly and therefore, he is ready to compensate the excess amount of Rs.100/- paid for the same. The disciplinary authority, without considering the said aspect, has erroneously fixed liability on the petitioner also. Thus, he prayed to allow this writ petition.

4. The learned Additional Government Pleader appearing for the respondents vehemently contended that the submission of the petitioner that one Junior Assistant, who was maintaining the account of the stock, is liable for the shortage cannot be accepted, because the petitioner being an administrative head of Office, cannot absolve himself from his responsibility. The petitioner is directed to pay only 25% of the loss caused to the Corporation as a measure of his negligence in administration and supervision, and therefore, the order of the respondent need not be interfered with. Thus, he prayed to dismiss this writ petition.

5. Heard the learned counsel appearing for both sides and perused the records carefully.

6.It is not in dispute that the respondent Corporation is having onerous responsibility of printing supplying textbooks to the schools in Tamil Nadu of high quality and distributing the same to the schools in time without giving room to any complaint. The petitioner was promoted as Regional Officer on 02.05.2007. He attained the age of superannuation on 31.12.2010.

7. The charges levelled against the petitioner is that as per the Audit report of the years 2007-08 and 2008-09, he has caused loss to the Corporation to the tune of Rs.3,04.608.33 by not properly maintaining the stocks, by disposing the disputed excess stock of paper without any orders and by dereliction of duty. The petitioner has submitted his explanations to the effect

that handing over and taking over of the stock was in between two staff by name Mr.Mohamed Sultan and Mr.Vedachalam respectively, who were in charge of the same during the relevant time and on 11.12.2007, one Samundeeswari was appointed as Junior Assistant and she was put in charge of the stocks in the godown and therefore, the petitioner cannot be made responsible for the act done by the said staff. However, the petitioner has admitted that he had paid telephone bill belatedly for which Rs.100/- was paid as late fee and the petitioner is ready to pay the late fee.

8. So far as the third charge ie., the petitioner has caused loss by disposing the disputed excess stock of paper without any orders when sufficient quantity of paper in same variety was available in the godown, is concerned, the petitioner has submitted his explanation to the effect that on 30.09.2008, an inspection was conducted in the godown and found that there is excess stocks. But, the petitioner reported to the head office on 07.10.2008 to the effect that the said observation made during the inspection is wrong and there is no excess stock. Based on such submission of the petitioner, again re-inspection was conducted on 05.11.2008 and it was found that there is no such excess.

9. Considering the above explanation submitted by the petitioner, the Enquiry Officer has held that the charges levelled against the petitioner are not proved. The disciplinary authority has relieved the petitioner from the third charge. But, the disciplinary authority has fixed 25% of liability towards loss amount on the petitioner, only on the ground that the petitioner has failed to make supervision. According to the petitioner, the Junior Assistant is the concerned Officer to maintain the stock and the duty of the petitioner is only to process and forward the reports placed before him. It is stated that the petitioner has unblemished record of 30 years of service, except the present charge memo. The charge memo has been issued only at the verge of his retirement. Of-course, it is true that the petitioner being a Regional Officer / Administrative Head has to look after over all functioning of the Office. It is not the allegation that he has misappropriated the amount. The only allegation is that he has failed to make supervision, for which imposition of 25% of loss amount as punishment on the petitioner is on the higher side. Considering the past service of the petitioner and also considering the fact that there is no allegation of misappropriation on the petitioner, the respondent could have imposed minor punishment without loss of monetary benefits to the petitioner. However, in view of the above and also considering the fact that petitioner has already attained the age of superannuation, this Court is of the view that it would be appropriate to set aside the impugned order.

10. In view of the above, the impugned order dated 30.01.2013 is set aside and the respondent is directed to pay the withheld amount of Rs.64,913/- to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order, except the admitted amount of Rs.100/-.

11. This writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcg

To

The Managing Director,
Tamil Nadu Text Book Corporation,
D.P.I. Campus,
College Road,
Chennai - 600 006.

+1 CC to MR.T.R.JEYAPALAM, Advocate ( SR-7243[F] dated 20/02/2020 )

Order made in
W.P(MD)No.5968 of 2013
19.02.2020

KM (26.06.2020) 4P 3C