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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.NO.26903 OF 2018

(Through Video Conferencing)

J.Srinivasan

... Petitioner

.Vs.

1. The Tamil Nadu Civil Supplies Corporation,
Rep. by its Chairman and Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2. The Regional Manager,
Chennai South Region,
Tamilnadu Civil Supplies Corporation,
Gopalapuram,
Chennai - 600 086.

3. The General Manager (Admin)
No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent dated 20.06.2018 bearing reference No.Na.Ka.No.A/15/8293/2010 and on the file of the first respondent dated 05.09.2018 bearing reference No.Se.Mu.Aa.No.ATI/28810/2018 and quash the same and consequently reinstate the petitioner into service with all monetary and other benefits and back wages with interest.

For Petitioner : Mr.D.Bharatha Chakravarthi

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



O R D E R

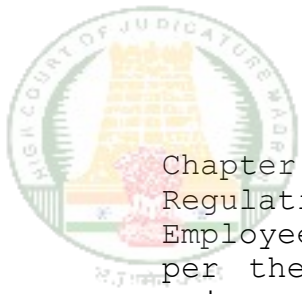
This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent dated 20.06.2018 bearing reference Na.Ka.No.A/15/8293/2010 and on the file of the first respondent dated 05.09.2018 bearing reference Se.Mu.Aa.No.AT1/28810/2018 and quash the same and consequently reinstate the petitioner into service with all monetary and other benefits and back wages with interest.

2. The petitioner an employee of first respondent Corporation at Amudham Retail Shop, Chintadripet, Chennai was alleged to have made additional billing in respect of 400 Kilograms of Rice, 42 Kilograms of Sugar and 312 Liters of Kerosene. Pursuant to complaints received by the Assistant Commissioner of the first respondent, the second respondent Regional Manager was deputed to investigate which culminated in initiation of disciplinary proceedings.

3. Earlier a charge memo was issued on 02.10.2010 which ultimately culminated in an order of dismissal from service dated 28.06.2012 of the first respondent. This was challenged by the petitioner in W.P.No.27795 of 2012. Taking note of the manner in which the entire disciplinary proceedings have been conducted, this Court by its order dated 21.06.2016, set aside the order passed by the first respondent dismissing the petitioner from service. However, while quashing the order impugned therein in W.P.No.27795 of 2012, the matter was remitted back to the respondents for conducting fresh enquiry as per the law laid down by this Court as well as the Hon'ble Supreme Court. It was made clear that the respondents shall give an opportunity of hearing and start de novo enquiry and pass appropriate orders on merits and in accordance with law.

4. The petitioner was thereafter reinstated into service on 21.11.2017 by the order of the second respondent. Within a week time, the petitioner was placed under suspension on 28.11.2017 which was impugned in W.P.No.32379 of 2017. The learned counsel for the petitioner further submits that notice was ordered in the said Writ Petition. By the time the service of notice was completed, the respondents had passed the impugned orders once again dismissing the petitioner from service. Under these circumstances, the said W.P.No.32379 of 2017 was closed and the petitioner thus has been pursuing his in this Writ Petition.

5. Challenging to the impugned proceedings of the respondent, it is submitted is that the entire disciplinary proceedings have been conducted contrary to the Regulation 4,



Chapter V the Disciplinary Proceedings Penalties and Appeal Regulations of the Tamil Nadu Civil Supplies Corporation Limited Employees Service Regulations, 1989. He further submits that as per the said Regulation, where there was a proposal to award major penalty, the competent authority is bound to issue a memo recording the basis of the charge, quoting the relevant rules or instructions omitted to be followed, the consequent result of such omission with specific charges suitably framed and call upon the delinquent to show why the major penalty should not be imposed by furnishing the list of documents relied upon as the basis of charge, the list of witnesses whose versions on the basis of the charge. He further submits that without following the procedure, the respondents once again committed error in passing the impugned order dismissing the petitioner from service.

6. Defending the impugned order, the learned Special Government Pleader appearing for the respondents submits that the respondents have followed the procedure contemplated under Regulation 4, Chapter V the Disciplinary Proceedings Penalties and Appeal Regulations of the Tamil Nadu Civil Supplies Corporation Limited Employees Service Regulations, 1989.

7. It is further submitted the petitioner accepted the charges. It is also submitted that the petitioner did not request for any of the documents or made a pray or request for examination of any of the witness and hence, there is no basis on which the impugned order can be set aside in this Writ Petition. It is further submitted that the petitioner indulged in creation of fake bill has indicated that there was sale through ration store and thereby, the petitioner attracted the disciplinary proceedings under the aforesaid regulations. The learned Special Government Pleader for the respondents submits that the impugned order is sustainable and therefore this Writ Petition is liable to be dismissed.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the affidavit filed in support of this Writ Petition and the counter affidavit of the respondents.

9. It is noticed that the respondents have not furnished the materials that are required before proceeding to impose major penalty. Regulation 4, Chapter V the Disciplinary Proceedings Penalties and Appeal Regulations of the Tamil Nadu Civil Supplies Corporation Limited Employees Service Regulations, 1989 is very clear. It is intended to ensure that a delinquent is given an adequate opportunity to defend himself or herself in such proceedings. Barring the allegations in the Charge Memo which stands reiterated in the report of the Enquiry Officer,



there is no other material which was furnished to the petitioner.

10. It was incumbent on the part of the respondents to have furnished a copy of the inspection report of the Area Manager which led to issue of Charge Memo and the Show Cause Notice to the petitioner by the second respondent. The disciplinary proceedings was conducted in a casual manner and thereby, the petitioner has been deprived of his right to effectively defend himself in such disciplinary proceedings. Entire disciplinary proceeding appears to be based on no evidence and therefore liable to be interfered with.

11. Under these circumstances, the impugned order dated 20.06.2018 of the second respondent dismissing the petitioner from service and the impugned order dated 05.09.2018 of the first respondent rejecting the appeal of the petitioner are liable to be interfered with and are set aside.

12. The respondents are directed to reinstate the petitioner into service within a period of three months from the date of receipt of a copy of this order.

13. This Writ Petition stands allowed with consequential relief to the petitioner. No cost.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman and Managing Director,
The Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.
2. The Regional Manager,
Chennai South Region,
Tamilnadu Civil Supplies Corporation,
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3. The General Manager (Admin)
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+1cc to Mr.T.Saikrishnan, Advocate, S.R.No.37800

W.P.NO.26903 OF 2018

AJS (CO)
PBS/08/09/2021