



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD) No.5772 of 2011

and

M.P. (MD) No. 1 of 2011

WEB COPY

K.Shanmugasundaram

... Petitioner

Vs.

1.The General Manager(Administration),
Tamil Nadu Tourism Development Corporation Ltd.,
Tourism Complex,
No.2, Walajah Salai,
Chennai-600 002.

2.The Regional Manager,
Tamil Nadu Tourism Development Corporation Ltd.,
Alagarkovil Road,
Madurai, Madurai District.

3.The Senior Manager,
Tamil Nadu Tourism Development Corporation Ltd.,
Hotel Tamil Nadu,
Rameswaram,
Ramanathapuram District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records pertaining to the impugned order of the second respondent in Proceedings No.742/Ma.A(Ma)/11, dated 12.05.2011 and quash the same.

For Petitioner : Mr.Shaji Chellan

(*)For Respondents No.2: Mr.C.Lakshmanan

: R.1 & R.3 - dismissed for default
vide order dated 07.06.2012

ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order of the second respondent in Proceedings No.742/Ma.A(Ma)/11, dated 12.05.2011 and quash the same.



2. The case of the petitioner is that he was working as a Front Office Assistant in Hotel Tamil Nadu under Tamil Nadu Tourism Development Corporation Ltd., in Rameswaram. He joined in the first respondent Corporation on 01.04.1981 as an Attendant. While so, in the year 2010, the third respondent issued a show cause notice stating that the cashier of the Hotel Tamil Nadu has shown the expenditure of Rs.450/- two times in his registers. The third respondent, instead of seeking explanation from the cashier, asked the petitioner to show cause as to why disciplinary action should not be initiated against the petitioner for the misappropriation of the above said amount.

3. The petitioner submitted his explanation on 05.06.2010 by explaining that he is not responsible for the accounts, which are dealt with by the cashier. Though the third respondent is not a competent authority to initiate disciplinary proceedings against the petitioner, he has framed charges against the petitioner. Subsequently, he suspended the petitioner on 16.08.2010. Thereafter, the petitioner was reinstated in duty on 12.10.2010.

4. In the meanwhile, a domestic enquiry was conducted by an Enquiry Officer, who was the Regional Accounts Officer of Madurai. After conducting the enquiry, the Enquiry Officer has drawn the proven report and based on the enquiry report, the second respondent has issued second show cause notice, dated 12.05.2011, calling for further explanation. Challenging the same, the present writ petition is filed seeking the above said relief.

5. Learned Counsel appearing for the petitioner would submit that though the petitioner was issued with second show cause notice, dated 12.05.2011 based on the enquiry report, the said enquiry report was not furnished to him in spite of several representations and personal requests made by him. The learned Counsel for the petitioner would further submit that the petitioner is nearing his age of superannuation and hence, he approached this Court by filing this writ petition and also obtained an interim order. After obtaining the interim order, the petitioner was allowed to retire from service in the year 2013. When the petitioner is not responsible for accounts, the issuance of show cause notice by the second respondent against the petitioner is not an acceptable one in the eye of law. Hence, he seeks for interference of this Court.

6. Learned Counsel appearing for the second respondent would submit that the impugned order is only a show cause notice and the Disciplinary Authority has to decide as to whether the enquiry report is correct or not and the explanation given by the petitioner is satisfied or not. Without allowing the Disciplinary



Authority to take a decision on the enquiry report, the petitioner has approached this Court. Hence, he prays for dismissal of the writ petition.

7. Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the second respondent and perused the materials placed on record.

8. The only ground raised by the petitioner in this writ petition is that the petitioner was not furnished with the enquiry report to enable him to file a detailed explanation to the Disciplinary Authority. Further, this Court granted interim order, subject to the result of the writ petition. At the time of filing of the writ petition, the petitioner is very much available in service. Hence the subsequent retirement will not hold against the respondent.

9. For the afore stated reasons, the writ petition is liable to be dismissed. Accordingly, the same is dismissed. However, the second respondent is directed to furnish the enquiry report within a period of one week from the date of receipt of a copy of this order and the petitioner shall submit his explanations before the second respondent within a period of two weeks thereafter and after the receipt of explanations from the petitioner, the second respondent shall conclude the disciplinary proceedings within a period of six weeks from the date of receipt of explanations from the petitioner. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (AE)

**(*)Corrected as per order of this
Hon'ble Court dated 05.02.2021**

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Regional Manager,
Tamil Nadu Tourism Development Corporation Ltd.,
Alagarkovil Road,
Madurai, Madurai District.

+1 CC to Mr.L.SHAJI CHELLAN, Advocate (SR-459[F] dated 07/01/2021)

+1 CC to Mr.C.LAKSHMANAN, Standing Counsel (SR-542[F] dated 07/01/2021)

W.P (MD) No.5772 of 2011
06.01.2021

NS (CO)

TR (16.02.2021) 4P 4C