



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 4695 of 2013 and
MP(MD).No.1 of 2013

S.T. Ganesan

:Petitioner

.vs.

1. The Secretary,
Handloom Textiles and Khadi Department,
Fort. St. George,
Chennai -9.

2.The Chief Executive Officer,
Tamil Nadu Khadi Industries Board,
Kuralagam Building,
Chennai - 108.

3.The Assistant Director of Khadi and Village Industries,
Tiruppur. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order in G.O.Ms.No.7, dated 10.01.2013 on the file of the 1st respondent and quash the same and also for issue a direction to the second respondent to reinstate the petitioner in the post of Khadi Assistant Grade -I, along with all back benefits and fixing a time frame by this Court.

For Petitioner :Mr. R. Ramasamy

For R1 & R3 : M/s. D. Farjana Ghoushia
Special Government Pleader

For R2 : Mr. Raguvaran Gopalan

O R D E R

This petition has been filed to quash the impugned order passed by the 1st respondent, dated 10.01.2013 and also for issuing a direction to the second respondent to reinstate the petitioner in



the post of Khadi Assistant Grade -I, along with all back benefits.

2. The petitioner while working as an Assistant Grade-I in Andipalayam, certain disciplinary proceedings were initiated in the year 1998. The petitioner was placed under suspension then the charges were framed against him. Thereafter, the second respondent dismissed the petitioner from service. The petitioner preferred an appeal before the first respondent and that was also dismissed. Challenging the same the petitioner preferred Writ Petition in W.P.No.12640 of 2000 praying to set aside the dismissal order with consequential prayer to conduct fresh enquiry. Aggrieved over the said order, the official respondents preferred writ appeal in W.A.No.1115 of 2007 vide Judgment dated 28.04.2008 the Division Bench has dismissed the said Writ Appeal. Thereafter, fresh enquiry was initiated vide notice, dated 28.04.2008 and the Enquiry Officer was appointed then the charge memo, dated 26.06.1996 was referred and issued an order, dated 07.07.2008 intimating the details of enquiry to the petitioner. The petitioner was facing two enquiries one for Andipalayam and the other for Usilampatti. The plea of the petitioner is that the respondent had directed to re enquire the Andipalayam charges but the respondents deliberately re-enquired the Usilampatti charges. Therefore, again the petitioner preferred W.P.No.7047 of 2008 and obtained stay of further proceedings in Usilampatti Case. In the meantime, the petitioner prayed to sanction subsistence allowance. Since the same was not sanctioned, the petitioner preferred Writ Petition in W.P.No.9788 of 2010 and the same was ordered. The official respondents preferred W.A.No.621 of 2011 and the same was dismissed. Finally, the official respondents paid the amount of subsistence allowance in two installments after filing the Contempt Petition. When the enquiry was commenced, the petitioner without attending enquiry was demanding the subsistence allowance. When the enquiry notices dated 29.01.2009 and 19.02.2019 was issued, the petitioner contended that he was ill and was admitted in hospital and did not attend the enquiry. Thereafter, the petitioner demanded certain documents and based on the two demands the petitioner did not attend the enquiry.

3. The petitioner also states that the respondents have conducted some of the enquiry at Trichy and some at Thiruppur. Finally, the third respondent forcibly conducted the enquiry and closed the enquiry on 25.10.2010. The petitioner claims the enquiry officer did not allow him to cross examine the witness in spite of repeated requests and thereafter, the petitioner claims after the enquiry was over, in the absence of petitioner certain witnesses were enquired. More than 20 witnesses were enquired and based on that third respondent submitted a report. Finally, the Enquiry Officer dismissed the petitioner from service vide order dated 18.08.2011. The petitioner submitted an appeal before the first respondent on 29.08.2011 and then the remainder on 16.11.2011. Since the appeal was not considered the petitioner filed a W.P(MD).
<https://hcservices2015.gov.in/hcservices2015> and this Court directed the respondent to dispose



the appeal within a period of two months vide order, dated 29.08.2011. Thereafter, the first respondent confirmed the order in the appeal vide G.O.Ms.No.7, dated 10.01.2013 and the Government has rejected the appeal.

4. The 2nd respondent has submitted a counter stating that the rules applicable to the disciplinary proceedings were adopted and the petitioner was granted adequate opportunity. The petitioner in order to drag on the proceedings has filed Writ Petitions and contempt petition and the subsistence allowance of Rs.5,55,916/- was paid in two installments. The charges against the petitioner are very grave.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. While hearing the Writ Petition, the respondents submitted there was an amendment in the Service Rules of Tamil Nadu Khadi and Village Industries Board Act, 1957, wherein the Appellate Authority is not the Government and the Board of the Directors are the Appellate Authority. Therefore, the appeal lies before the Board of the Directors and thereafter, the petitioner seeking to quash the Appellate order passed by the Government and directing the second respondent to regularize him in the post of Khadi Assistant Grade -I, along with the backwages and other benefits. This Court is not inclined to grant reinstatement of the petitioner. The Government has passed an order in spite of the amendment has come into effect from the year 1998 onwards. The official respondents submitted since this Court has passed an order directing the Government to pass an order in WP(MD).No.12015 of 2012, the Government has passed an order.

7. It is not known why the counsels appearing for the petitioner and the respondents have not put forth the subsequent amendment before this Court. Therefore, taking into consideration of the relevant factors as stated above, this Court is inclined to set aside the impugned order and direct the Board of Directors to consider the appeal as per the provisions of law applicable to Khadi and pass appropriate speaking order within a period of four months from the date of receipt of a copy of this order. Since the petitioner is on the verge of retirement the plea of reinstatement is rejected. Moreover, the allegation against the petitioner is grave in nature on that ground also the plea of the reinstatement is rejected. If the Board is taking time to dispose of the appeal beyond four months, then the Board shall consider paying of subsistence from the date after the period of four months is over for considering the appeal.



8. With the above stated limited relief, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

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RD(31.01.2022) 4P 4C