



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30 .11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.7948 of 2014

G. Rajendran

:Petitioner

.vs.

1.The State of Tamil Nadu
rep. By its Secretary to Government,
Handloom, Handicrafts, Textile and Khadi
Department,
Secretariat, Chennai - 600 009.

2.The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagm Buildings,
Chennai - 600 018.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 1st respondent vide his proceedings dated 09.04.2014 in Letter No.3290/F1/2011-7 and quash the same and further direct the respondents to reinstate the petitioner in service by giving all monetary and other service benefits for which the petitioner is entitled from the date of punishment order dated 01.02.2002.

For Petitioner	: Mr. A. Thirumurthy for M/s. Victory Associates
For R1	: Mr. R. Ragavendran Government Advocate (Civil side)
For R2	: Mr. Raguvaran Gopalan

O R D E R

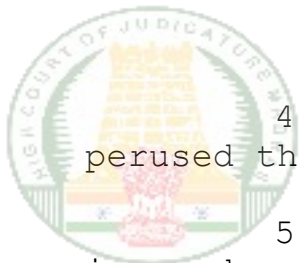
This petition has been filed to quash the impugned order issued by the 1st respondent vide his proceeding, dated 09.04.2014 in Letter No.3290/F1/2011-7 and further direct the respondents to reinstate the petitioner in service by giving all monetary and other service benefits, for which the petitioner is entitled from the date of punishment order, dated 01.02.2002.

2. The petitioner was appointed as Chemist Grade - III (Soap) and was posted for the Soap Unit, Sivakasi on 13.02.1990 and service was regularized with effect from 23.02.1991. A charge memo was issued on 24.05.2000 alleging that the petitioner prepared a false voucher of Rs.18.30/- to that of Rs.498.30/- and submitted the same to the superiors as if the petitioner purchased



registers for Soap Unit. The petitioner submitted an explanation on 08.08.2000 and oral enquiry was conducted by appointing Assistant Director, Virudhunagar as Enquiry officer and the charges were held to be proved and the second respondent imposed punishment of compulsory retirement allowing only 1/3rd of gratuity and denying pension vide proceeding, dated 01.02.2002. Aggrieved over, the petitioner submitted representations dated 07.03.2002, 10.04.2002, 04.02.2003 and 09.05.2004. Since no order was passed, the petitioner made repeated remainders on 08.10.2010, 09.12.2010 and 28.12.2010. Thereafter, the petitioner filed Writ Petition in W.P(MD).No.1663 of 2011 before this Court praying to issue a Writ of Mandamus directing the first respondent to dispose the appeal, dated 28.12.2010 and this Court vide order dated 26.02.2014 directed the first respondent to dispose of the appeal within a period of four weeks. Thereafter, the second respondent vide proceeding dated 24.03.2014 has stated that as per the resolution passed by the Board of Director (Nilai) No.28, dated 20.05.2003, the Regulation 38 of Tamil Nadu Khadi and Village Industries Board has been amended. As per the amendment Clause C & D, the appeal by an employee will be placed before the Board and the same will be decided by the Board of Directors. Further it has been mentioned that the petitioner was working as a Soap Chemist would fall under "Clause C" Amended Regulation. Therefore, the appeal ought to be submitted before the Board of Directors as per the amended Rules.

3. The first respondent has filed a counter stating that the petitioner with an intention to defraud the Khadi Industry has falsely created a bill which is grave charge and has rightly imposed the punishment of compulsory retirement with the sanction of 2/3rd gratuity. As per Rule 39 of the Tamil Nadu Pension Rules, 1978 while imposing the compulsory retirement from service as a penalty may be granted by the authority competent to impose such penalty, pension or gratuity or both at a rate not less than 2/3rd and not more than full compensation pension or gratuity or both admissible to him on the date of compulsory retirement. Relying on this Rule, the respondents have imposed the punishment of compulsory retirement with 2/3rd gratuity. This Court has directed to consider the petitioner's appeal and therefore, the first respondent has considered the appeal and passed an order. In fact it was informed that the petitioner's Board is vested with power as per the amendment but the petitioner has submitted an appeal papers before the first respondent and has obtained orders from this Court to consider the the appeal and pass order. The act of the petitioner by purchasing household items from Sivakasi Coronation Cooperative Super Market and correcting the invoice as if the registers were purchased from the Sivakasi Soap Unit could not be treated as minor charge. Hence, the punishment imposed is correct and accordance to law.



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

5. It is seen from the records that the punishment was imposed on the petitioner vide order, dated 01.02.2002 and the amendment to the Rules granting power to the Board of Directors was issued in the year 2003. The petitioner has submitted an appeal before the first respondent on 08.10.2010, 09.10.2010 and 28.12.2010. Thereafter, the petitioner has filed Writ Petition in WP(MD).No.1663 of 2011 and this Court without going into the merits of the case has directed the respondents to consider the appeal.

6. On perusing the date of punishment order and the appeal petition filed by the petitioner this Court is of the considered opinion that the appeal was filed with the delay of 8 years. Therefore, the appeal itself is hopelessly barred by principles of limitation and latches. The claim of the petitioner that the respondents has passed an order without considering the grounds raised in the appeal petition and it is also non speaking order and prayed for remitting back to the authority to consider the appeal grounds.

7. This Court is of the considered view that since the appeal itself is hit by principles of limitation and latches, the petitioner is not entitled to get the relief of remand back. He ought to be aware of the rights and ought to have filed an appeal within a reasonable time. If the matter is remanded back another leverage is granted to the petitioner that too with the charges of mis-appropriation and creating false evidence which are grave in nature. This Court is of the considered opinion that the remand back would be a futile exercise. At this juncture, the petitioner prayed to direct the respondents to pay the monetary benefits. On considering the entire facts of the case this Court is of the considered opinion that the petitioner is not entitled to any pension. However, in order to meet the ends of justice the respondents are directed to pay the full gratuity.

8. With the above observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)



To

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Handloom, Handicrafts, Textile and Khadi Department,
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