



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.04.2022

PRONOUNCED ON : 06.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.17063 of 2010

P. Balraj

... Petitioner

Versus

1. The Chairman,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai 600 108.
2. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai - 600 108.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Certiorari to call for the records relating to the impugned order of the first respondent in Khadi Board Proceedings No. 12 dated 15.04.2009 confirming the order passed by the second respondent in Na.Ka.No.29805/E3 (2)/04 dated 06.06.2008 and quash the said order and grant all consequential benefits to the petitioner.

For Petitioner : Mr. P. Rajendran

For Respondents : Mr. S.K. Bose
for R1 and R2

ORDER

The writ petitioner was working as Khadi Inspector cum Co-operative Supervisor under the respondents. While so, when he was due to retire from service on 31.07.2004, he was not permitted to retire and was placed under suspension on the ground that an enquiry is being contemplated against him in respect of grave charges. Thereafter, a charge memorandum dated 24.05.2005 containing five charges were framed against him. He



submitted his explanation on 24.07.2005 denying the charges. After conducting the interview, the enquiry officer submitted his report on 19.08.2005. Since he is a retired employee, the papers were sent to the second respondent namely the Chief Executive Officer on 31.7.2004 for passing appropriate orders. Thereafter, on 06.06.2008, the second respondent passed an order imposing punishment of compulsory retirement on the date of superannuation and further directed withholding of 1/3rd amount from his DCRG in view of the loss caused by the petitioner. Aggrieved by the order of punishment, the petitioner preferred an appeal before the first respondent on 08.07.2008. On 15.04.2009, the first respondent rejected the appeal and the same was communicated to the second respondent. Aggrieved by the original and the appellate orders, the present writ petition is filed.

2. The primary contention raised by the learned counsel for the petitioner is that when the appeal is filed against the order of the Chief Executive Officer, and the Chief Executive Officer, who happens to be a member of the Board/appellate authority, and therefore any decision taken by the appellate authority amounts to authority deciding the appeal against its own order and therefore the order is unsustainable.

3. To the above submission, the learned counsel appearing for the respondents submitted that, in such cases, normally the Chief Executive Officer even though is part of the first respondent Board, will step out of the Board meeting and it will be duly recorded in the minutes. Therefore, he will not participate in the deliberations/decisions relating to the appeal.

4. On the said submission, the matter was passed over for the learned counsel for the respondents to verify from the original file as to whether the second respondent had participated or not. Upon verification, the learned counsel for the second respondent would fairly concede that in this case that the second respondent had participated in the Board Meeting even while the appeal was being considered.

5. In that view of the matter, the impugned order passed in appeal dated 15.04.2009 bearing Khadi Board proceedings No.12 is set aside. The matter is remitted back to the first respondent for considering the appeal once again on merits, without the presence of the second respondent namely the Chief Executive Officer on Board and to pass orders afresh in accordance with



law. The said exercise shall be carried out by the first respondent Board within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of with the above directions. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrn

To

1. The Chairman,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai 600 108.
2. The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai - 600 108

+1cc to Mr.P.Rajendran, Advocate, S.R.No.32451

+1cc to Mr.S.K.Bose, Advocate, S.R.No.32487

W.P.No.17063 of 2010

MT (CO)
UMA (14/06/2022)