



WEB COPY

W.P.No.1739 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 1739 of 2016

P. Govindaswamy

... Petitioner

Vs.

The Tamil Nadu Civil Supplies Corporation,
Represented by its Regional Manager,
Tiruvallur Region,
Tiruvallur – 602001.

... Respondent

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Na.Ka.No.B2/2684/08 dated 04.12.2015 of the respondents, quash the same and consequently direct the respondent to release the sum of Rs.1,41,443/- withheld from the retirement benefits, with penal interest.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.S.Senthilkumar



ORDER

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The punishment of recovery imposed in proceedings Na.Ka.No.B2/2684/08 dated 04.12.2015, is sought to be quashed in the present writ petition.

2. The petitioner was employed as a Bill Clerk in Gummidipundi respondent Corporation at Tiruvallur. Smuggled ration rice seized by various agencies are stored in the godowns. According to the petitioner, if the seized rice is subject matter of any criminal case, then it is kept for an indefinite period and ultimately, the rice will become a waste commodity. If at all there is no criminal case registered, then the said rice bags will be recycled and sent for supply in the market.

3. As far as the petitioner is concerned, he was allowed to retire from service on 31.07.2008 and after his retirement, on 10.09.2008, a show cause notice was issued to the petitioner, holding him responsible for loss of 31.177 metric tons seized rice between the period 2004-2008, and thus caused financial loss to the respondent corporation. A charge memo was issued in this regard vide proceedings dated 22.09.2008. The petitioner



submitted an explanation dated 30.10.2008 denying the allegations that as a bill clerk, he was in no way responsible for keeping the smuggled goods in the godown. Therefore the charge itself is untenable.

4. The competent authorities conducted an enquiry appointing an enquiry officer, who in turn held that the charges against the petitioner were not proved. However, the respondent issued serious warning and consequently passed an order of recovery.

5. After disposal of the disciplinary proceedings, more so after the lapse of four years thereafter, the impugned order of recovery has been issued, holding that the petitioner is liable to repay the financial loss of Rs. 1,41,443, which is his share of the loss.

6. The learned counsel for the petitioner mainly contended that the petitioner is in no way responsible for keeping the smuggled rice in the godown and that he cannot be held responsible for the financial loss if at all caused. The disciplinary proceedings initiated against the writ petitioner was proceeded with and an enquiry officer was appointed, who held inquiry and he ultimately gave a finding that the charges are not proved against the writ



petitioner. While so, the departmental disciplinary proceedings were disposed of with a warning. While so, there is no reason whatsoever to impose a recovery after a lapse of four years from the date of disposal of the disciplinary proceedings in the year 2009. The impugned order has been issued in the year 2015, after holding by the enquiry officer that the petitioner is not responsible for any such financial loss.

7. This Court is of the considered opinion that the competent authorities issued a show cause notice and further framed charges against the writ petitioner. The enquiry officer appointed conducted enquiry and found that the charges are not proved against the writ petitioner. More so, the writ petitioner was allowed to retire from service in the year 2008. While so, the order of recovery issued after a lapse of more than four years from the date of disposal of the disciplinary proceedings cannot be sustained at all.

8. First of all, the delay caused in issuing the order of recovery is also a ground to set aside the same. That apart, the petitioner was held not responsible for the financial losses in the departmental disciplinary proceedings as the enquiry officer has held that the charges are not proved.



This being the factum established, the writ petition deserves to be allowed and accordingly, the order impugned passed by the respondent dated 04.12.2015 is quashed and the respondent is directed to settle the balance terminal and pensionary benefits due to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. The writ petition stands allowed. No costs.

02.11.2022

mrn
Index : Yes / No
Speaking order / Non-Speaking order

To
The Regional Manager,
The Tamil Nadu Civil Supplies Corporation,
Tiruvallur Region,
Tiruvallur – 602001.



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S.M.SUBRAMANIAM, J.

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