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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5755 of 2014
and
M.P.No.1 of 2014

G.Ramesh Kumar

...Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2.The General Manager (Admn.),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned proceedings in order No.AD2/92962/2012, dated 02.12.2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Rajan

For Respondents: Mr.L.P.Shanmugasundaram

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein, while working as a Junior Assistant in the respondent-Corporation, was levelled with charges that he had fabricated the official gazette to the effect that he had passed in the TNPSC District Manual Test. Based on the levelled charges, an enquiry came to be conducted and through an enquiry report dated 29.06.2012, the charges were held to be proved. Consequently, the Disciplinary Authority, namely the second respondent herein, had imposed a punishment of dismissal from service on 16.11.2012. The appeal against the



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desired to be perused, are considered to be not relevant to the charges, the Enquiry Officer shall record so in his findings. So also the witnesses whose versions from the basis of the charges should be examined providing opportunity to the delinquent to cross examine. Thereon the witnesses produced by the delinquent should be examined with due relevance to the charges. The delinquent may also be permitted to file his Written Statement."

6. As per the aforesaid regulation, when the charges are framed, there is a duty cast on the respondents to provide the delinquent with the list of witnesses and list of documents on which they intend to rely upon during the course of enquiry. Likewise, when such an enquiry is conducted, the delinquent requires to be given due opportunity during the course of examination, as well as provide him an opportunity to witness the chief examination of the management witnesses, as well as an opportunity to him to cross examine them.

7. In the instant case, the petitioner has specifically raised a ground that all these procedures were not followed and that apart from failing to give the list of witnesses and documentary evidences, he was also not given opportunity to cross examine the management witnesses. This aspect has not been denied by the respondents in the counter affidavit.

8. While that being so, the entire enquiry itself is vitiated and hence, the consequential punishment imposed by the Disciplinary Authority cannot be sustained. However, since this Court has found that the action initiated by the respondents is not in accordance with the service regulations, it would be appropriate to give an opportunity to the second respondent to conduct a fresh enquiry in accordance with the Employees' Service Regulations, 1989. In view of such remittance of the matter back to the second respondent, the impugned punishment, as well as the order-in-appeal, confirming the punishment, cannot be sustained.

9. In the light of the above observations, the impugned order dated 02.12.2013 is quashed. Consequently, the matter is remitted back to the second respondent herein. In case the second respondent intend to proceed with the domestic enquiry against the petitioner, liberty is hereby granted to him to conduct a fresh enquiry, based on the original charge memo dated 06.08.2011. If required, the second respondent is at liberty to appoint a new Enquiry Officer. The second respondent shall ensure that the Enquiry Officer extends due opportunities to the petitioner during the course of enquiry in accordance with the procedures contemplated under Chapter V of the Tamil Nadu Civil



Supplies Corporation Employees' Service Regulations, 1989. The second respondent shall endeavour to complete the entire enquiry proceedings within a period of 6 months from the date of receipt of a copy of this order.

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10. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2.The General Manager (Admn.),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

+1cc to Mr.G.Rajan, Advocate, S.R.No.24838

W.P.No.5755 of 2014
and
M.P.No.1 of 2014

GP(CO)
SB(21/04/2022)