

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.19803 of 2014

and

M.P.Nos.1 & 2 of 2014

K.Keerthivasan

... Petitioner

Vs

1. Tamil Nadu Civil Supplies Corporation Ltd.,
Rep. By its Managing Director,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.

2. Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Namakkal Region, Namakkal.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the files of the 2nd respondent bearing Na.Ka.No.E2/4900/13 dated 03.04.2014 and quash the same.

For Petitioner : Mr.S.Kumarasamy for Mr.K.M.Ramesh

For Respondents: Mr.J.Kanikkai Nathan
Standing Counsel

ORDER

The order of recovery dated 03.04.2014 is sought to be quashed in the present writ petition.

2. The petitioner was appointed as Helper and subsequently promoted to the post of Bill Clerk. While the petitioner was working in Rasipuram Godown, he was placed under suspension on initiation of departmental disciplinary proceedings. The petitioner was served with a charge memo dated 17.02.2014, wherein it was stated that there a surprise inspection by the Vigilance Squad in Rasipuram Godown on 25.11.2013 and certain irregularities were found out. The crux of the first charge was that there was shortage of Boiled Rice to the tune of 113 grams and Raw Rice to the tune of 366 grams from each bag and 147 bags were checked while loading the bags into the lorry. The second

charge against the petitioner was that there was an excess of 10 kg and 500 grams of Raw Rice. The third charge was that, from the confiscated rice, while weighing 6.270 metric ton, there was shortage and the value of the said shortage was Rs.1,31,670/- The petitioner was directed to submit his explanation, who in turn submitted the same, denying the charges. However, the second respondent issued the impugned order dated 03.04.2014 imposing recovery, without any further adjudication on the explanation or issued any show cause notice for recovery.

3. The learned counsel for the petitioner mainly contended that if at all a charge memo has been issued and an explanation is submitted by the delinquent official, then an enquiry is to be conducted before passing an order of penalty or recovery. In the present case, no such enquiry was conducted and the order of recovery was issued unilaterally without providing opportunity to the petitioner for adjudication of the disputed issues.

4. That apart, the counter affidavit filed by the respondents reveals that the name of the petitioner was not found in the Vigilance Officer's report dated 17.12.2013 and his name has been removed from the earlier recovery order for a sum of Rs.83,353/-. In view of the pendency of the writ petition, the authorities have not passed any further orders, based on the Vigilance Officer's report dated 17.12.2013. The portion of the counter affidavit in this regard reads as hereunder:-

"Based on the Vigilance Officer's report dated 17.12.2013, the recovery order for the shortage of seizure rice and for the shortage of Yellow Lentil and Boiled Rice 'A' grade to the tune of Rs.83,353/- has now been revised on the part of the petitioner as Rs.39,530/- by apportioning the amount of recovery for the shortage of Yellow Lentil and Boiled Rice Grade "A" from the persons who had worked in Rasipuram Godown. As the name of the petitioner was not found in the Vigilance Officer's report dated 17.12.2013, his name has been now removed from the earlier recovery order for Rs.83,353/- subject to outcome of the Court order."

5. In view of the fact that the name of the petitioner has not been found in the Vigilance Officer's report dated 17.12.2013 and further on the ground that no enquiry was conducted before passing an order of recovery by providing an opportunity to the petitioner, this Court is inclined to consider the writ petition.

6. Accordingly, the impugned order passed by the second respondent in Na.Ka.No.E2/4900/13 dated 03.04.2014 is quashed and the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road,
Kilpauk,
Chennai - 600 010.
2. Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Namakkal Region,
Namakkal.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.42480

W.P.No.19803 of 2014

KK(CO)
CT/20/07/2022