



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.01.2022

Pronounced on : 17.02.2022

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CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.3282 of 2015

R. Rajapandian

:Petitioner

..vs..

1.The Tamil Nadu Khadi and Village Industries Board,  
rep. by its Board of Directors,  
Kuralagam,  
Chennai - 108.

2.The Tamil Nadu Khadi and Village Industries Board,  
rep. by its Chief Executive Officer,  
Kuralagam,  
Chennai - 108.

3.The Assistant Director,  
Khadi and Village Industries Board,  
Madurai - 18.

: 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 dated 17.07.2014 in Khadi Board Proceeding Order (Ms).No.32 passed by the 1<sup>st</sup> respondent confirming the order in Na.Ka.No.1283/03/E3(1), dated 12.11.2008 and Na.Ka.No.2366/09/E3(1) dated 28.05.2010 passed by the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to disburse the petitioner's retiral benefits which payable to him.

For Petitioner : Mr. B. Muneeswaran

For 1<sup>st</sup> Respondent : Mr. R. Ragavendran  
Government Advocate (Civil Side)

For respondents 2 and 3: Mr. Raguvaran Gopalan



**O R D E R**

The Writ Petition has been filed to call for the records relating to the impugned order dated 17.07.2014 in Khadi Board Proceeding Order (Ms).No.32 passed by the 1<sup>st</sup> respondent confirming the order in Na.Ka.No.1283/03/E3(1), dated 12.11.2008 and Na.Ka.No.2366/09/E3(1), dated 28.05.2010 passed by the 2<sup>nd</sup> respondent and quash the same and consequently direct the respondents to disburse the petitioner's retrial benefits which payable to him.

2. The petitioner was employed as Assistant Grade-II in Khadi and Village Industries Board, Paramakudi and he was suspended from service on 22.11.2000 and charge memo, dated 09.12.2000 was issued. According to the petitioner, the charge memo was issued without following the rules framed under the Tamil Nadu Khadi and Village Industries Board Rules. The charge against the petitioner is that he has sanctioned the loan and caused loss to the Board to the tune of Rs.2,50,840/-. The petitioner has submitted an explanation dated 18.05.2001 and enquiry was conducted. The contention of the petitioner is no witnesses were examined and no documents were marked during the enquiry and the petitioner was not given enquiry report. But, based on the enquiry report dated 15.11.2002, the petitioner was removed from service. Aggrieved over the petitioner preferred the appeal to the Government. Since the Rule was amended, the appeal was forwarded to the Board and the Board dismissed the petitioner's appeal on 01.12.004. Aggrieved over the petitioner filed W.P.No.4683 of 2004 and this Court vide order dated 17.09.2007, allowed the Writ Petition and the relevant portion is extracted hereunder:

*"14. It is seen from the records that the petitioner has already reached the age of superannuation and thereafter if at all an enquiry was conducted, the said enquiry can be only with reference to fixation of an alleged loss committed by the petitioner and he cannot be imposed with any penalty by a disciplinary action."*

Therefore, the respondents issued notice of enquiry dated 12.12.2007 directing the petitioner to submit the explanation and the petitioner has submitted an explanation dated 07.01.2008. The second respondent without considering the observation of this Court in W.P.No.4643 of 2004 passed an order of removal. Again the petitioner preferred an appeal before the respondent Board and the same was dismissed. Aggrieved over the present Writ Petition is filed.

3. The respondents have filed counter stating during the period 1998-1999, 1999-2000 the petitioner sold Khadi Cloth to private individuals by violating the Board instructions. Generally, the cost of cloth sold on credit will be collected in 10 monthly



installments. But the amount on the Khadi sales was done by the petitioner not collected for years together. So the enquiry was conducted with the individuals to whom the petitioner said to have made Khadi Sales and the enquiry reveals that no such persons were residing in the said address. The Board money to the tune of Rs.3,07,638.25/- could not be collected. By this act of the petitioner, the Board has incurred loss. For the said act, the petitioner was placed under suspension and charges were framed. After enquiry orders were issued for removing the petitioner from Board service. Challenging the same the petitioner filed W.P.No. 883 of 2004 and this Court directed the respondents to conduct fresh enquiry. Based on the directions fresh enquiry was conducted and the order was issued to the petitioner on 01.12.2004. Again the petitioner filed W.P.No.4683 of 2004 wherein directions were given to communicate the enquiry officer's report. Thereafter, the report was served on the petitioner and further explanation was obtained. Based on the explanation, the order of punishment of removal from service was confirmed and an order of recovery of loss amount was also initiated. The petitioner has preferred an appeal to the Board on 27.01.2009 and subsequently filed W.P(MD).No.13934 of 2009 before this Court and this Court directed the respondent to grant personal opportunity to the petitioner and thereafter, pass order in the appeal. As per the directions of this Court, the Chief Executive Officer, called the petitioner for personal hearing on 15.03.2010 and on oral statements have following the requisite formalities final orders were again issued removing him from Board's service and to recover the loss amount of Rs.3,07,638.25/-. Challenging the orders issued by the second respondent the petitioner filed an appeal to the appellate Board on 16.07.2010 and subsequently filed W.P(MD).No.11663 of 2010 with the prayer to dispose the appeal petition. Therefore, the petitioner's appeal was examined in detail before the Board meeting conducted on 18.06.2014 and after detailed examination the appeal was rejected in K.B.P.Ms.No.32, dated 17.07.2014. The case filed by the petitioner in W.P(MD)No.11663 of 2010 is still pending before this Court. This Court in W.P.No.4683 of 2004 dated 17.09.2007 directed the respondents to conduct enquiry. In pursuance to the same the petitioner was requested to offer his further explanation on the report. After getting further explanation since the charges framed already on him again proved orders were passed confirming the punishment of removal from service. The petitioner is misleading by stating the respondent has not considered the observation made by this Court. The respondents had not violated the directions of this Court since no fresh disciplinary action was initiated on the petitioner after issuance of the directions from the Court. Even before the date of his retirement on superannuation he was placed under suspension and charge memo was issued to him for the grave irregularities committed him causing huge loss to the Board. Due to the irregularities a sum of Rs.4,27,203.25/- could not be recovered and pending for several years adding financial burden to the Board.



Since all the formalities including the natural justice are granted to the petitioner there is no infirmity in the impugned order and hence, the respondents prayed to dismiss the Writ Petition.

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

5. The contention of the petitioner is in an earlier round of litigation this Court has specifically passed an order stating since the petition has attained superannuation the said enquiry can be only with reference the loss committed by the petitioner and he could not be imposed any penalty by disciplinary action. It is seen from the records that this Court has passed such an order and the respondents have not filed any appeal against the said order. Therefore, the said order has attained finality. In such circumstances the respondent cannot again pass an order of punishment of removal from service.

6. Therefore, this Court is of the considered opinion that the impugned order of removal from service ought to be set aside and thereby set aside. However, the punishment of recovery of Rs.4,27,203.25/- is confirmed. The respondents shall recover Rs.4,27,203.25/- from the petitioner. The petitioner shall pay the said amount in one lumpsum within a period of four weeks from the date of receipt of a copy of this order. Since there is no punishment of removal from service, the petitioner is directed to pay an additional amount of Rs.2,00,000/- as compensation to the respondents. The respondents are directed to consider the consequential relief since the punishment of removal from service was set aside and pass fresh order.

7. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

1.The Board of Directors,  
The Tamil Nadu Khadi and Village Industries Board,  
Kuralagam,  
Chennai - 108.



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

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3.The Assistant Director,  
Khadi and Village Industries Board,  
Madurai - 18.

+2 CC to M/s.T.MURUGANANTHAM, Advocate ( SR-7559[F] dated 21/02/2022 )

+1 CC to M/s.RAGUVARAN GOPALAN, Advocate ( SR-6867[F] dated 17/02/2022 )

Order made in  
W.P (MD) No.3282 of 2015  
17.02.2022

nsn(CO)  
TR(28.02.2022) 5P 7C