



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.16340 of 2017

M.Arumugam

... Petitioner

Vs.

1.The Additional Chief Secretary/Industries Commissioner
and Director of Industries and Commerce,
SIDCO Buildings,
Thiru.Vi.Ka.Industrial Estate,
Guindy,
Chennai - 600 032.

2.The Principal Secretary/Chairman and Managing Director,
TANSI Corporation Limited,
A-28, Thiru.Vi.Ka.Industrial Estate,
Guindy,
Chennai - 600 032.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the first and second respondents relating to the proceedings No.62/EB1/2012 dated 25.11.2014 of the Managing Director, TANSI, Chennai and the proceedings No.1642/EB/2015 dated 07.08.2017 of the Additional Chief Secretary/Industries Commissioner and Director of Industries and Commerce, Chennai and quash the same and consequently direct them to refund the recovered amount of Rs.26,244/- from the DCRG of petitioner within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Kameswaran,
Government Advocate(Civil Side).

ORDER

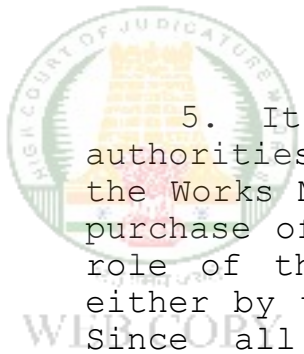
This Writ Petition is filed to quash the impugned order dated 25.11.2014 and proceedings dated 07.08.2017 and consequently to direct the respondents to refund the recovered amount of Rs.26,244/- from the DCRG of the petitioner within a stipulated time.



2. The brief facts of the case are that the petitioner was serving as Works Manager, TANSI Fabrication Works, Vellore and he was allowed to retire on 30.04.2016 on attaining the age of superannuation without prejudice to the disciplinary proceedings. The disciplinary proceeding was initiated and was disposed of by ordering recovery of a sum of Rs.26,244/- in six monthly installments for the alleged loss vide order dated 25.11.2014 by the second respondent. Aggrieved over the same, the petitioner preferred an appeal and the petitioner preferred W.P.(MD).No.16965 of 2016 and this Court vide order dated 13.06.2017 directed the respondents to dispose the appeal within stipulated time. Thereafter, the respondents vide order dated 07.08.2017 dismissed the appeal. The disciplinary proceeding was initiated on 05.03.2013 for the alleged delinquency that took place in the year 2009, wherein, six charges were framed. The Enquiry Officer has held that Charge Nos.2, 3 and 4 are not proved, Charge No.1 is partially proved and Charge No.5 is proved. Regarding the Charge No.6, the Enquiry Officer has stated that this charge may be decided by the Corporate Office based on his findings on the other five charges.

3. The contention of the petitioner is that in the final orders, the punishing authority, i.e., the second respondent or the appellate authority have not decided the charge wise but passed an order in general in one paragraph without discussing the report of the Enquiry Officer. It is not clear what are the charges that are accepted and what are not accepted in the final orders and hence both the disciplinary authority's order and the appellate authority's order are non speaking orders and also the orders are passed without any application of mind.

4. The contention of the petitioner is that though the disciplinary authority and the appellate authority have accepted that the Foreman and the Store Keeper are also responsible, no disciplinary action was initiated against them. Though one of the co-delinquents, the Store Keeper, namely, D.Murugan, subsequently expired, the Foreman, namely, N.R.Sivaprakash has been allowed to retire and received all his retirement benefits. Hence, there is a clear discrimination offending the principles of equity enshrined under Article 14 of the Constitution. The disciplinary authority and the appellate authority have not specifically quoted Rules prescribed by TANSI, which is violated by the petitioner. The authorities have not mentioned as to what are all the duties and responsibilities of the Works Manager prescribed by TANSI particularly when it was mentioned by the petitioner in his explanation. The only delinquency alleged to be proved against the petitioner is that the petitioner is responsible for purchase of defective 20mm MS rod and defective manufacturing of 2788 number of eye bolts (2454 Kgs) and making loss of Rs.1,04,094/-.



5. It is also the contention of the petitioner that the authorities have not shown any Rule or Code or any circular making the Works Manager as responsible for the above said lapses. In the purchase of the above said materials and manufacturing, what is the role of the Works Manager as per the Rules have not been shown either by the disciplinary authority or by the appellate authority. Since all the responsibilities are fixed on the petitioner, aggrieved over, the petitioner has filed this Writ Petition.

6. The respondents have not filed any counter.

7. Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner and Mr.S.Kameswaran, learned Government Advocate(Civil Side) appearing for the respondents.

8. The contention of the petitioner is that before clarifying the duties and responsibilities of each and every post, the respondents are not having any power to fix the responsibilities on the petitioner. According to the petitioner, he was serving as Works Manager and apart from Works Manager, there were two other posts, which are responsible for all these allegations, namely, Foreman and Store Keeper. Even, according to the disciplinary authority and the appellate authority, the Foreman and the Store Keeper are also responsible.

9. The contention of the respondents is that since the Store Keeper, namely, D.Murugan, had subsequently died, departmental proceedings was not initiated against the said N.R.Sivaprakash by invoking Rule 9 of Tamil Nadu Pension Rules. But, however, the respondents have accepted that both the Foreman and the Store Keeper are responsible along with the petitioner.

10. It is not clear as to how the loss of Rs.1,04,094/- was quantified and how the amount of Rs.26,244/- was apportioned and liability was fixed on the petitioner. Even if three persons are taken into account and proportionate liability to be fixed, then the recovery amount of Rs.26,244/- is not correct. The respondents have conveniently left out the Foreman. At least, the respondents should have initiated action under Rule 9 of Tamil Nadu Pension Rules. Even for the petitioner, the respondents have imposed the punishment by deducting amount from DCRG, when the petitioner retired from service. Since there is clear discrimination, the advantageous position ought to have been granted to the petitioner.

11. Therefore, this Court is inclined to interfere with the punishment and the impugned order of recovery is set aside. However, a token punishment ought to be inflicted for negligence on the part of the petitioner. Therefore, the respondents are directed to deduct Rs.1000/- (Rupees One Thousand only) and the balance amount of Rs.25,244/- (Rupees Twenty Five Thousand Two Hundred and



exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

12. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

To

1.The Additional Chief Secretary/Industries Commissioner
and Director of Industries and Commerce,
SIDCO Buildings,
Thiru.Vi.Ka. Industrial Estate,
Guindy,
Chennai - 600 032.

2.The Principal Secretary/Chairman and Managing Director,
TANSI Corporation Limited,
A-28, Thiru.Vi.Ka. Industrial Estate,
Guindy,
Chennai - 600 032.

+1 CC to M/s.SPL.GP. (SR-22115[F] dated 28/04/2022)

W.P. (MD) .No.16340 of 2017
27.04.2022

MK/06.06.2022/4P/4C