



W.P.No.23808 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.23808 of 2012

T.K.Mohan

... Petitioner

Vs.

- 1.The Chief Executive Officer,
Tamilnadu Khadi and Village Industries Board,
Kuralagam Building,
Chennai 600 108
- 2.Regional Deputy Director,
Tamilnadu Khadi and Village Industries Board,
Trichy
- 3.The Assistant Director of Khadi and
Village Industries Board,
Dharmapuri

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Mandamus directing the respondents to refund the withheld amount of Rs.2,63,731/- with interest from 29.05.2003 till date of payment and interest on the said sum from 30.06.1998 till date of payment.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.S.K.Bose



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ORDER

This writ petition has been filed for direction to the respondents to refund the withheld amount of Rs.2,63,731/- with interest.

2. The petitioner had joined in the Government services as Second Grade Assistant on 16.06.1961 with the Tamilnadu Khadi and Village Industries Board. Thereafter, he was promoted to the post of First Grade Assistant. He attained the age of superannuation on 30.06.1998 and retired from service as Khadhi Inspector. During festival seasons, he was deputed to sell Khadhi cloth to Government servants. After sales, in conformity with the procedure, he had sent the bills to the concerned drawing officers through the Assistant Director of Khadhi and Village Industries in the concerned district for realisation. It was their responsibility to collect the outstanding amounts. However in the year 1998, there was amount due from those departments regards Khadhi sales and as such the respondents proceeded to recover the said amount from the petitioner. Even after retirement, he was not paid any pension due. In fact, he was allowed to retire only on condition that the retirement



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benefits shall not be payable. Hence, he submitted representation and also filed a writ petition before this Court in WP.No.17844 of 1998. This Court directed the respondents to pay the pensionary benefits after withholding the amount due to the department. Accordingly after withholding a sum of Rs.2,63,731/-, he was paid other benefits.

3. The learner counsel for the petitioner would submit that whenever khadhi clothes are sold out to the Government employees, they ought to have executed Form No.13 and to undertake to pay the sale consideration within 10 months. Therefore, it is not their duty to collect the said amount due. In support of his contention, he relied upon the judgment of this Court in the case of *V.N.Kulandaisamy Vs. Khadi Village Industries Board* rendered in WP.No.5982 of 1997, in which this court held that how the amount could be recovered from the petitioner therein or how he could be held responsible to make good of the said dues. While acting as Manager, he is only a staff of the Board. When the purchases are permitted to be made on credit by Government servants, the Khadi Board undertakes the risk of supplying the materials on credit



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in order to ensure the prompt payment of the dues, in Form No.13, the Government also obtains an undertaking from the purchaser to recover from the monthly pay. Apart from the entitlement for such recovery under Section 23, the Khadi Board is entitled to proceed against the purchaser to recover the said amount as arrears of land revenue. By no stretch of imagination, a staff of the Board can be held responsible for the recovery of the said amount much less can there be any hold on the retirement benefits.

4. Heard, the learned counsel appearing on either side.

5. On perusal of the counter filed by the respondents revealed that the judgment cited by the learned counsel for the petitioner is no way connected with the present case of the petitioner, if the petitioner had carried out genuine sales to Government employees by getting sanction from the Assistant Director under whose control he was working, the respondents can very well take the responsibility of collecting the due Demand Collection Balance amount. Whereas the petitioner made credit



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sales to unknown individuals without proper address and without proper consent from the Assistant Director. Further, an undertaking will be given by the employer of the department in Madras Financial Code Namuna – 80 to whom Khadi credit sales is effected stating that he will recover the Demand Collection Balance amount in 10 monthly installments and remit it to the Khadi Board. Generally, if credit sales is done to Government servants, the Demand Collection Balance amount would automatically be recovered in 10 monthly installments commencing from the subsequent month after the sale. Since the petitioner had effected bogus sales to individuals best known to him, the Demand Collection Balance amount was not collected for years. Therefore, the respondents cannot take responsibility for the irregular sales done by the petitioner.

6. The petitioner can very well approach the customers to whom he made credit sales and collect Demand Collection Balance amount. If the petitioner collects the Demand Collection Balance amount from the customers, the respondents will refund the withheld amount to



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the petitioner as soon as the entire outstanding balance amount is collected and remitted to the respondents Board's account.

7. Therefore, the judgment cited by the learned counsel for the petitioner is not applicable to the case on hand and the relief sought for in this writ petition cannot be granted. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

07.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

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Kuralagam Building,
Chennai 600 108
- 2.Regional Deputy Director,
Tamilnadu Khadi and Village Industries Board,
Trichy
- 3.The Assistant Director of Khadi and
Village Industries Board,
Dharmapuri
4. The Government Advocate,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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