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W.P.No.2748 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2023

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

W.P.No.2748 of 2015

R.Kumar Gandhi

...Petitioner.

Vs.

- 1.The Managing Director,
Tamil Nadu Civil Supplies,
Corporation (T.N.C.S.C.),
Head Office,
No.12, Thambusamy Road,
Kilpauk,
Chennai – 600 010.
- 2.The General Manager (Admn.),
Tamil Nadu Civil Supplies
Corporation (T.N.C.S.C.),
Head Office,
No.12, Thambusamy Road,
Kilpauk,
Chennai – 600 010.
- 3.The Regional Manager,
Tamil Nadu Civil Supplies,
Corporation (T.N.C.S.C),
Ramanathapuram Region,



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Ramanathapuram.

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4. The Regional Manager,
Tamil Nadu Civil Supplies,
Corporation (T.N.C.S.C),
Tuticorin Region,
Tuticorin.

...Respondents.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue writ of certiorarified mandamus, calling for the records of the 1st respondent pertaining to his order which is made in Se.Mu.Aa.No.AT2/55293/2014 dated 16.10.2014 and the order of the 2nd respondent made in Na.Ka.No.E3/4439/2012 dated 22.09.2014 of the 3rd respondent in so far as the recovery from the petitioner is concerned) and quash the same, consequently to direct the respondents to refund the amount of recovery to the petitioner.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.Sarath Babu

ORDER

The petitioner challenges the order of the Appellate Authority, modifying the order of the Original Authority and thereby imposing a punishment of cut in increment for a period of three (3) years without any cumulative effect.

2. The respondent had framed charges as against the petitioner. As per



the said charges, the charge memo was served. However, as required under Chapter V Rule 4 sub-clause (b) of Disciplinary Proceedings, Penalties and Appeal Regulations, the documents and list of witnesses were not given to the petitioner. The learned counsel for the petitioner has raised this as a ground. When a person is charged with a memo, he is entitled to know the witnesses who are going to speak against him and also entitled to peruse the documents on the basis of which he has been charged against.

3. In this particular case, it has not been furnished at all. Therefore it is in violation of principles of natural justice and infraction of Tamil Nadu Civil Supplies Corporation Employees' Regulation of 1989. In similar circumstances, this court in W.P.No.5755 of 2014 dated 08.04.2022 had found that failure to give list of witnesses and list of documents is contrary to the Chapter V of the aforesaid Regulations.

4. This court had taken a view that if the procedures are not followed and the aforesaid infraction takes place in the enquiry, the appropriate order that the court should pass is to quash the order challenged and remit the matter to the respondents for a fresh enquiry.



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WEB COPY 5. Accordingly, without going into the merits of the charges, the writ petition is allowed. The order of the Appellate Authority as well as the original authority stand quashed. The matter is remitted to the Original Authority for the purpose of serving the list of documents and list of witnesses on the petitioner. Once the same is done, the respondents shall proceed in accordance with law after giving a reasonable opportunity to the petitioner and shall conclude within a period of eight (8) months from the date of receipt of copy of this order. This writ petition stands allowed. No costs.

16.06.2023

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Index : Yes/No
Speaking : Yes/No
Neutral Citation Case : Yes/No



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V.LAKSHMINARAYANAN,J
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