



WEB COPY



W.P.No.6323 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

W.P.No.6323 of 2022

J.Navukkarasu

.. Petitioner

Versus

1.The Board of Directors/
Reviewing Authority,
Central Warehousing Corporation,
No.1, Siri Institutional Area,
August Kranti Marg, Hauz Khas,
New Delhi – 110 016.

2.The Managing Director,
Central Warehousing Corporation,
No.1, Siri Institutional Area,
August Kranti Marg, Hauz Khas,
New Delhi – 110 016.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the 1st respondent / Board of Directors in its Confidential Agenda No.342.02 dated 08.02.2019 (signed on 21.02.2019) and quash the same and consequently promote the petitioner in the cadre of Manager (General) from the date on which his immediate Junior was promoted with all consequential service benefits.



W.P.No.6323 of 2022

For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.R.Thirunavukarasu

ORDER

This petition has been filed to quash the order passed by the 1st respondent / Board of Directors in its Confidential Agenda No.342.02 dated 08.02.2019 (signed on 21.02.2019) and consequently, promote the petitioner in the cadre of Manager (General) from the date on which his immediate Junior was promoted with all consequential service benefits.

2. The writ petitioner filed the above writ petition challenging the punishment of penalty for withholding of his pay in the time scale of SAM (G), by two stages for a period of one year without cumulative effect. On appeal, the same has been reduced for a period of six months without cumulative effect and the Board has reduced the same and imposed the punishment of 'Censure'.



WEB COPY

3. The charges framed against the writ petitioner as follows;-

“Shri J.Navukkarasu, while working as Sr. Asstt. Manager (G) at CWC, RO, Bangalore during the year of 2012 was assigned General Inspection of Central Warehouse, Gulberga-II by Regional Manager, CWC, RO, Bangalore vide letter dated 05.11.2012. He was required to conduct inspection as per procedure conveyed by Corporate Office for general inspection and carry out physical verification of stocks stored in the various godowns, but he failed to do so which resulted in concealment of shortage of stocks. He also, in connivance with other officials manipulated the figures in inspection records as detailed in the statement of imputation of misconduct (Annex-II)”

4. The Enquiry Officer has come to the conclusion that the charges framed as against the writ petitioner that he connived with others and failed to conduct inspection has not been established. However, the Enquiry Officer proceeded further and held that there are negligence on the part of the delinquent namely the writ petitioner. Based on the above, the Disciplinary authority has imposed punishment of stoppage of increment for



W.P.No.6323 of 2022

the period of one year without cumulative effect and on appeal, it has been reduced to six months and on revision in has been ordered 'Censure', challenging the same the writ petition has been filed.

5. The main contention of the learned counsel for the petitioner that the very charges framed as against the writ petitioner have not been established in the enquiry. When the appointing authority take a different view and imposed the punishment, proper opportunity should have been given to the delinquent, which has not been done so, whereas punishment has been imposed for the allegation, which has never put against the writ petitioner in the very charge memo itself. Hence, it is his contention that the very punishment imposed on the petitioner is not valid in the eye of law.

6. It is the counter stand of the respondents that the Court cannot venture into the re-appreciation of evidence. The enquiry has been conducted as per procedure, petitioner failed to maintain absolute integrity and failed to maintain devotion to duty, and acting in a manner prejudicial to the interest of the Corporation and neglected work or negligence in the performance of the duty. Therefore, the same violates the Regulation



W.P.No.6323 of 2022

39(i)(a)(b) r/w 40(v)(ix) of Central Warehousing Corporation (Staff)

Regulation, 1986.

7. The learned counsel for the respondents on instruction submitted that the petitioner has not conducted inspection properly and he was in negligent, which has been clearly established on record. Therefore, the authorities have inflicted punishment as per the rules and the same cannot be interfered by this Court.

8. Heard both sides and I perused the materials available on record.

9. As rightly contended by the learned counsel for the petitioner the original charge was only with regard to the fact that the petitioner has not conducted inspection, which resulted in concealment of shortage of stock and also connived with other officials in manipulating the inspection records. There was no charge whatsoever framed with regard to the negligent act of the writ petitioner. In fact, the Enquiry Officer proceeded on the evidence and found that the charge of connivance and concealment of shortage of stock have not been established. The Disciplinary Authority also



W.P.No.6323 of 2022

concurrent with the finding of the Enquiry Officer that no definite proof for any of the charges have been found during the enquiry. On evidence it is found that there is no charge proved. Further there was no specific charge as to the negligence and the said charge of negligence also not put against the delinquent officer to put forth the explanation and meet out the charges, therefore, it has to be held that there is a violation of principles of natural justice. Therefore, this Court is of the view that in the absence of any evidence, on the mere interference drawn by the Enquiry Officer, one cannot be fastened with the punishment, which has a serious effect in the career.

10. In such view of the matter, the order imposing punishment is liable to be interfered with. Accordingly, the writ petition stands allowed and the order passed by the 1st respondent / Board of Directors in Confidential Agenda No.342.02 dated 08.02.2019 is hereby quashed. There shall be no order as to costs.

07.07.2023

ata

Index : Yes / No

Speaking Order : Yes / No

6/10



WEB COPY



W.P.No.6323 of 2022

To

- 1.The Board of Directors/Reviewing Authority,
Central Warehousing Corporation,
No.1, Siri Institutional Area,
August Kranti Marg, Hauz Khas,
New Delhi – 110 016.
- 2.The Managing Director,
Central Warehousing Corporation,
No.1, Siri Institutional Area,
August Kranti Marg, Hauz Khas,
New Delhi – 110 016.



WEB COPY



W.P.No.6323 of 2022

N.SATHISH KUMAR, J.

ata

W.P.No.6323 of 2022

07.07.2023



W.P.No.6323 of 2022

W.P.No.6323 of 2022

WEB CO **N.SATHISH KUMAR, J.**

Today, this case was listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner, seeking modification in the order dated 07.07.2023.

2.When the case was called, the learned counsel for the petitioner submitted that, since, the order imposing punishment on the petitioner is quashed by this Court, it may be directed to the respondents that if the petitioner otherwise is eligible for promotion, as such of his junior, the same may be considered. Hence, seeks this Court to incorporate such modifications in the above Order dated 07.07.2023.

3.Considering the submission of the learned counsel for the petitioner, Paragraph No.10 of the Order dated 07.07.2023 is to be read as follows:

*“...10. In such view of the matter, the order imposing punishment is liable to be interfered with. Accordingly, the writ petition stands allowed and the order passed by the 1st respondent/Board of Directors in Confidential Agenda No.342.02 dated 08.02.2019 is hereby quashed. There shall be no order as to costs. **It is made clear that if the petitioner, otherwise is eligible for promotion, as such of his junior, the same may be considered by the concerned authorities on its own merits.**”*



WEB COPY



W.P.No.6323 of 2022

N.SATHISH KUMAR, J.

dhk

4.The Registry is directed to make necessary modifications in the said order and issue fresh copies. Except the above modifications, the above Order remains intact.

14.07.2023

dhk

Note: Issue Order Copy on 19.07.2023

W.P.No.6323 of 2022