



WEB COPY



WP.No.27883 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUIMAR

WP.No.27883 of 2022

T.Janarthanan

.. Petitioner

Versus

1.The Chairman & Managing Director
Tamil Nadu Road Infrastructure Development Corporation
4th Floor, L.L.A.Building
735, Anna Salai
Chennai – 600 002

2.The Executive Director
Tamil Nadu Road Infrastructure Development Corporation
4th Floor, L.L.A.Building
735, Anna Salai
Chennai – 600 002

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings bearing TNRIDC/Estt/DGM(F)/2022 dated 02.05.2022 on the files of the first respondent and quash the same and consequently direct the 1st respondent to reinstate the petitioner into the services of the Corporation with continuity of service and all attendant benefits.

For Petitioner : Mr.V.Kalyanaraman
for M/s.Aiyar and Dolia

For Respondents : Mr.D.Ravichander



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ORDER

This petition is filed challenging the termination of the petitioner from service passed by the first respondent vide proceedings bearing TNRIDC/ESTT/DGM(F)/2022 dated 02.05.2022, quash the same and consequently direct the first respondent to reinstate the petitioner into the service of the Corporation with continuity of service and all attendant benefits.

2. The case of the writ petitioner is that he joined services of Tamil Nadu State Construction Corporation Ltd., a Government of Tamil Nadu Undertaking on 02.11.1984 and he was regularized as Accounts Superintendent on 01.05.1985 and in May 1994, he was promoted as Assistant Manager (Accounts). During the year, 1997, the Tamil Nadu State Construction Corporation Ltd became defunct and all the employees were deputed to various Government Organisations. The petitioner joined duty on 26.12.1997 as Assistant Manager (Finance and Accounts) in Tamil Nadu Urban Finance and Infrastructure Corporation Ltd. During June 2000, he was promoted as Manager in charge (Finance and Accounts), the post which he held till September 2007 and during September 2007, he was promoted as Manager (Finance and Accounts). The petitioner relieved on 31.03.2013.

3. During the year 2014, the respondent Corporation invited application



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for appointment to the post of Deputy General Manager (Finance) cum Company Secretary and the petitioner was selected and appointment order was issued by the first respondent on 14.02.2014. The 63rd Board Meeting were scheduled to be held on 28.12.2021, agendas were prepared for the said meeting. One such agenda was in relation to the remittance of enhanced employer's share of EPF contribution relating to the staff deputed from Tamil Nadu State Construction Corporation Ltd., to the respondent Corporation. As certain queries were raised by the first respondent and due to inadvertence, the petitioner did not explain the queries raised by the first respondent. Further, the first respondent on 07.01.2022, issued a memo to the effect that the petitioner had placed the above mentioned agenda which was not approved by the first respondent and the petitioner was called upon to submit his explanation. On 24.01.2022, the petitioner submitted explanation stating that the unapproved subject was placed in the Board Meeting due to inadvertence. The first respondent by the impugned letter dated 02.05.2022 terminated the petitioner from service of the Corporation. It is the grievance of the writ petitioner without holding proper enquiry, the impugned termination order has been passed. Hence, this writ petition.

4. Counter has been filed by the Second Respondent. It is the contention



of the respondents that the petitioner has submitted unapproved agenda in the 63rd Board Meeting, hence, he was served with the charge memo to submit his explanation. The petitioner has submitted his explanation on 24.01.2022, wherein, he has admitted he had placed the agenda which has not been approved by CMD, TNRIDC. Since, he has admitted the same, as per Clause 48 of Memorandum and Articles of Association, the first respondent has passed the termination Order.

5. Clause 48 of Memorandum and Articles of Association deals with the Power of Directors:

"without prejudice to the general powers conferred by these articles, the Board shall have power to appoint at their discretion, remove or suspend such managers, secretaries, officers, clerks, agents and servants from permanent, temporary or special services as they may from time to time, think fit and to determine their powers and duties and to fix their salaries or emoluments and to require security of such amounts as they think fit such instances"

6. The learned counsel for the petitioner submitted that though the unapproved agenda has been placed in the Board Meeting, he has submitted his explanation to the effect that the same was placed due to inadvertence. Even without considering such explanation, the respondent authority has straight away passed the termination order without giving any opportunity and it is a clear case of violation of principle of natural justice, whereas, the



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learned counsel for the respondents submitted that as per Clause 48 of Memorandum and Articles of Association, the Board has every power to remove such managers without prejudice to the general powers conferred by these articles. Therefore, it is the contention that when the petitioner himself has admitted the mistake, there is no question to conduct the enquiry.

7. At the outset, this Court is the view that the very impugned order passed by the respondent terminating the petitioner from service merely on the basis of the explanation is nothing but clear violation of principle of natural justice. What has explained in the reply by the petitioner that is only inadvertence, he had placed the unapproved agenda in the Board meeting. If the respondent is not satisfied of the explanation, the proper procedure would be to initiate proper enquiry proceedings, wherein, the petitioner, would have got the opportunity to defend the charges. Without resorting any such proceedings and merely on the basis of explanation that is also explaining the manner in which such inadvertence crept cannot be taken as an admission of the guilt.

8. Such view of the matter, while imposing such major punishment i.e.,



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terminating from service, the respondents ought to have conducted proper enquiry proceedings, which has not been done in this case. Accordingly, the Order terminating the petitioner from service cannot be sustained in the eye of law and the same is hereby set aside.

9. In view of the above, this writ petition stands allowed. No costs. It is also stated by the learned counsel for the petitioner that the petitioner has attained the age of superannuation in the month of May 2023. Hence, this Court directs the respondent authority that the terminal benefits payable to the petitioner shall be paid in accordance with law.

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dhk

Internet: Yes/No

Neutral Citation: Yes/No



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N.SATHISH KUMAR, J.



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