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W.P.No.9853 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.9853 of 2017
and W.M.P.No.10839 of 2017

T.Paramasivam

.. Petitioner

VS

1.The Appellate Authority & Board of Directors,
Tamil Nadu Urban Finance and Infrastructure Development,
Infrastructure Development Corporation Limited,
No.490/1-2, Anna Salai,
Nandanam
Chennai 600 035.

2.The Chairman & Managing Director,
Tamil Nadu Urban Finance and Infrastructure Development,
No.490/1-2, Anna Salai,
Nandanam
Chennai 600 035.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent issued in No.TUFIDCO/D.P./ADMN.F.No.10/2016-6 dated 08.02.2017, confirming the order of the second respondent issued in No.TUFIDCO/D.P./ADMN.F.No.10/2016-5 dated 29.07.2016 and quash the same and issue a consequential direction to the respondents to treat the period of suspension for a period from 28.01.2016 to 28.07.2016 as a period spent on duty with pay and allowances and grant fully salary for the above said period to the petitioner along with the amount of gratuity and a part of encashment of earned leave recovered towards the loss of interest of Rs.10,95,119/- of the respondent Corporation, with 18% interest per annum.



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For Petitioner : Mr.R.Saseetharan
For Respondents : Mr.S.Gunasekaran
for R2

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ORDER

Writ petition has been filed in the nature of a certiorarified mandamus seeking records of the first respondent, the Appellate Authority and Board of Directors, Tamil Nadu Urban Finance and Infrastructure Development Corporation Limited at Chennai dated 08.02.2017 by which order, the first respondent had confirmed earlier by the second respondent, Chairman, Tamil Nadu Urban Finance and Infrastructure Development Corporation Limited at Chennai in No.TUFIDCO/D.P./ADMN.F.No.10/2016-5 dated 29.07.2016 and to interfere with both the said orders and treat the period of suspension 28.01.2016 to 28.07.2016 as period of suspension as on duty and grant salary to the petitioner together with the gratuity amount and the amount of Rs.10,95,119/- which had been recovered by the respondents together with interest.

2. Even before proceeding further, let me make it clear that the Court will not grant any interest for the benefit of the petitioner herein.

3. The short facts are that the petitioner originally joined



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the respondents as Junior Manager (Administration) on 25.10.1993 and was subsequently given successive promotions. Finally, he was posted as Manager in the year 2007. He was placed under suspension on 28.01.2016 on the ground that he had committed negligence in his duty and there was dereliction also and it was also alleged that there was malpractice and dishonest motive. All this was with respect to a short term deposit of Rs.23.40 crores in Indian Overseas Bank, Vijaya Hospital Branch, Chennai.

4. Disciplinary proceedings had been initiated against the petitioner herein. There were four charges, which had been framed against the petitioner and primarily all of them related to alleged non-maintenance of integrity, non-devotion to duty, being negligent and being lethargic and shirking responsibilities as the Manager and causing needless hardship to the reputation of the Corporation.

5. The enquiry proceeded on the basis of the aforementioned charges which necessitated the initiation of enquiry proceedings under Rule 17(b) of the CCA Rules of the Tamil Nadu Appeal and Discipline Conduct Rules. Enquiry proceeded in its own manner and finally the enquiry officer



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recorded a finding that the charges has been established.

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6. It must be kept in mind that all the charges related to mental culpability and establishment of the same, would have involved deep analysis of the evidence produced. The material evidence was about the handling of the short term deposit of Rs.23.40 crores of Indian Overseas Bank. At any rate, charges having been established, the petitioner was given an opportunity to give a further explanation and finally, the entire file moved before the second respondent, who was the disciplinary authority.

7. The second respondent, who had a range of punishments which could have been imposed on the petitioner, was more focused on recovering the financial loss, which, according to the second respondent, had occurred to the respondents and, therefore, imposed a punishment of recovery of a sum of Rs.10,95,119/- which was the loss of interest amount caused, allegedly owing to the acts of the petitioner herein. The said amount had been recovered from the gratuity payable to the petitioner herein. The petitioner filed an appeal before the first respondent, who confirmed the said order.



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8. On the basis of the above facts, the entire proceedings might sound quite lawful but unfortunately for some reason, the respondents had also parallelly initiated Consumer Case No.47 of 2022 before the District Court Consumer Redressal Forum at Chennai South against the Indian Overseas Bank. It was originally numbered as C.C.No.84 of 2016.

9. This would indicate that the enquiry proceedings and the matter before the Consumer Court proceeded parallelly. It also indicated that the amount of recovery passed by the respondents nos. 1 and 2 had been done with conscious knowledge of the fact that the respondents had initiated proceedings before the Consumer Court again seeking recovery of the very same amount. This would only imply that the respondents are invariably interested in getting the sum twice over, once from the petitioner and parallelly also from the Indian Overseas Bank. I leave it to the respondents to reflect on the wisdom in pursuing such a course.

10. At any rate, the Consumer Court again proceeded to examine the issues raised and by order dated 07.09.2022 passed an award / decree in favour of the respondents herein for a sum of Rs.10,78,751/- and also for a further sum of Rs.10,000/- as costs.



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Add and subtract, the amount recovered are the same, may be little different. But the fact remains that the respondents now have two separate orders in their favour. One against the petitioner and the other against the Indian Overseas Bank.

11. Learned counsel for the respondents, however, stated that the Indian Overseas Bank had filed an appeal before the State Consumer Court. The appeal had been invited by the respondents themselves and they will have to face necessary judicial proceedings so far as that appeal is concerned. The appeal has been filed on a complaint given by the respondents and, therefore, they should have been prepared that the entire case would go up to its logical end which includes filing of an appeal by a party who is adversely affected by the authority in original, in this case, the District Consumer Redressal Forum, Chennai South.

12. I am not able to understand the rationale behind imposing such a punishment against the petitioner herein. The respondents have a decree in their hand. They can very well proceed to seek execution of the decree in manner known to law and the law provides such execution. They cannot enrich themselves twice over.



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13. In view of that particular fact, the punishment imposed is interfered with and is set aside. Consequentially the amount which had been recovered from the petitioner herein is directed to be paid back to the petitioner. Necessary proceedings in this regard should be passed by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.

14. The petitioner is also entitled to all back wages, including treating the period of suspension as on duty and necessary relief for the same in the manner of salary and other emoluments should be paid to the petitioner herein. The only relief which is negated is payment of interest but I am confident that the respondents should also be happy that they are not mulcted with payment of interest on this particular aspect.

15. Writ petition stands allowed. No costs. Connected miscellaneous petition is closed.

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Index:Yes/No
Neutral Citation:Yes/No
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To

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C.V.KARTHIKEYAN,J.

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