



W.P.No.30130 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

AND

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

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C.Punniyakotti

..Petitioner

Vs.

The Managing Director,
Tamil Nadu Zari Limited,
Industrial Estate,
Kancheepuram 631 502.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling records from the respondent relating to the impugned dismissal order in Ref.2019-20/Estab. Dated 12.10.2019 and quash the same and direct the Respondent Management to reinstate the petitioner in service with all service benefits namely continuity of service, back wages, increment, promotion etc.

For Petitioner : Mr.R.Rajaram

For Respondents : Mr. Karthikeyan Anbazhagan
for M/s.K.Siddharth



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ORDER

(Order of the Court was delivered by R.SUBRAMANIAN, J.)

The petitioner is aggrieved by the order of the Managing Director of the respondent dated 12.10.2019 imposing a punishment of dismissal from service on the petitioner.

2. The petitioner was working in the Tamil Nadu Zari Limited, as Store Keeper/Cashier (FAC). The petitioner was charge sheeted for various delinquencies. His major defence was that he was not a cashier and therefore, the charges cannot be laid against him. An enquiry was conducted by the Managing Director of the Tamil Nadu Zari Limited and the petitioner was found guilty. The Managing Director by his proceedings dated 27.02.2013 imposed a minor punishment on censure on the petitioner. However, the petitioner was visited with another order dated 12.10.2019 removing him from service for the same set of charges, hence this Writ Petition.

3. We have heard Mr.R.Rajaram, learned counsel appearing for



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the petitioner and Mr.Karthikeyan Anbazhagan, learned counsel appearing for Mr.K.Siddharth, for the respondent.

4. Mr.R.Rajaram, learned counsel would submit that though a power of review has been conferred on the Board under Regulation No.4.6 of the Staff Regulations, which deals with disciplinary proceedings, the said power cannot be exercised by the Managing Director since it is vested in the Board. It is his further contention that while enhancing the punishment by the subsequent order dated 12.10.2019, he was not heard and no notice was issued to him.

5. In response to the said submissions Mr. Karthikeyan Anbazhagan, learned counsel appearing for the respondent Board would submit that even during the first enquiry conducted in 2013, the procedure for conduct of enquiry for imposition of a major penalty was followed and the Board found that the punishment imposed was not commensurate with the proved charges.



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6. In view of the said conclusion, the Board had directed the Managing Director to impose proper punishment. While conceding the power of the Board to reopen proceedings, we are of the view, such reopening can be done only subject to principles of natural justice. If the punishment is to be enhanced, the fundamental position in service jurisprudence is that the delinquent must be given an opportunity to defend the punishment already imposed. Service Law requires, even if a Disciplinary Authority which wants to take a different view from the view of the Enquiry Officer it should issue notice to a delinquent employee, before concluding on such issue. Therefore, before enhancing the punishment, the Managing Director must have given the petitioner an opportunity to defend the order passed earlier. In the absence of such opportunity the order impugned in the Writ Petition will have to be set aside only on the ground that the principles of natural justice were not adhered to.

7. Hence the Writ Petition will stand **allowed**, the order of the Managing Director, Tamil Nadu Zari Limited dated 12.10.2019 is set aside. It will be open to the respondent to give appropriate opportunity to the



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petitioner and decide on the punishment that is to be imposed on the petitioner. The petitioner is entitled to be reinstated in service, unless there is any other proceeding against him. There shall be no order as to costs.

(R.S.M., J.) (S.S.K., J.)
25.01.2023

jv

Index : No

Internet: Yes

Speaking order

Neutral Citation: Yes

To:-

The Managing Director,
Tamil Nadu Zari Limited,
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and
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