



W.P.(MD)No.5780 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5780 of 2020

and

W.M.P(MD)Nos.5050 and 5051 of 2020

K.Kannan

... Petitioner

Vs.

1.The Commissioner,
H.R. & C.E. Department,
Chennai – 600 034.

2.The Joint Commissioner,
H.R. & C.E. Admin. Department,
Madurai – 625 003.

3.The Joint Commissioner
Executive Officer,
Arulmigu Meenakshi Sundareshwarar Thirukovil,
Madurai – 625 001.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the order passed by the third respondent in Na.Ka.No.2827/2015/A1 dated 10.03.2020 and quash the same.



W.P.(MD)No.5780 of 2020

For Petitioner	: Mr.Niranjan S.Kumar
For R-1 & R-2	: Mr.R.Ragavendran, Government Advocate
For R-3	: Mr.V.R.Shanmuganathan

ORDER

This writ petition has been filed to quash the order passed by the third respondent in Na.Ka.No.2827/2015/A1, dated 10.03.2020.

2. The case of the petitioner is that the petitioner was appointed as daily wage employee on temporary basis in the third respondent temple in the year 1996. Subsequently, he got several promotions. Finally, on 11.12.2013, he was promoted as Senior Assistant. The petitioner rendered 19 years of unblemished service. While being so, on 13.03.2015, the third respondent sent a communication vide proceeding in Na.Ka.No.290/2011/A1, dated 13.03.2015, directing the Superintendent to inspect the godowns, stock register and to inspect all kinds of prasadhams which are manufactured inside the temple and to check the quality and quantity and to submit a report. Based on the said communication, the Superintendent inspected the prasadham manufacturing area and the stall used for sales and found that all the



W.P.(MD)No.5780 of 2020

WEB COPY

materials are perfect and the quality and quantity of the prasadam are perfectly in order. While so, certain products which were given for making prasasham, were not in good quality, hence, the petitioner wrote a letter to the third respondent and requested to replace the products. Based on the same, the third respondent issued an order, dated 19.03.2015 directing the petitioner to surrender the defective products to the temple store and to get new stock. Subsequently, the third respondent issued an order, dated 19.04.2015, directing the petitioner to assist during Chithirai Temple Festival and also to co-ordinate with prasadam stall. Since the petitioner wrote several communications pinpointing the unworthiness of the stocks, the irregularities committed in purchase, sale and in maintaining stocks, the other Department officials namely, the Store Keeper, Superintendent and the third respondent were showing vengeance against the petitioner.

3. The further case of the petitioner is that on 14.07.2015, a surprise inspection was conducted by the third respondent and the petitioner, who was in-charge of sales was asked to leave out from the prasadam manufacturing area. Subsequently, the third respondent issued



W.P.(MD)No.5780 of 2020

a charge memo on 21.07.2015 and he was suspended. Five charges were framed in the charge memo. For that, the petitioner submitted a detailed explanation on 21.07.2015. Subsequently, on 14.09.2015, the third respondent issued another order framing additional charges and totally eleven charges were framed against the petitioner. After enquiry, the third respondent passed final orders on 30.04.2016 and dismissed the petitioner from service. As against the same, the petitioner preferred an appeal in A.P.No.4 of 2016 before the second respondent. The second respondent vide order, dated 26.10.2016, modified the punishment and imposed punishment of reversion of service to two lower grades and also held that there shall be no promotion till his retirement. Challenging the said order, the third respondent filed a revision before the first respondent in R.P.No.329/2016/D2 u/s.21 of HR & CE Act, 1959. As against the aggrieved portion of the order passed by the second respondent, the petitioner has also filed a revision before the first respondent. Both the revisions were heard together and the first respondent dismissed the revision filed by the petitioner and allowed the revision filed by the third respondent and confirmed the punishment of dismissal from service. In these circumstances, based on the audit



W.P.(MD)No.5780 of 2020

objection, the third respondent passed the impugned order, dated 10.03.202, directing the petitioner to pay a sum of Rs.3,26,530/-. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned counsel appearing for the petitioner would submit that in the very same issue the petitioner filed a writ petition in W.P(MD)No.15670 of 2017 wherein this Court granted an order of interim stay of all further proceedings of the show-cause notice, dated 20.08.2016. However, the third respondent passed the impugned order in the very same subject, which is nothing but a clear case of abuse of process of law and prays for allowing of this writ petition.

5. Per contra, the learned standing counsel appearing for the third respondent would submit that for the lapses committed by the petitioner, he was imposed with a punishment of dismissal from service. Subsequently, the same was confirmed vide the order of first respondent dated 19.05.2017. Challenging the same, the petitioner has filed a writ petition in W.P(MD)No.15670 of 2017. This Court vide order, dated



W.P.(MD)No.5780 of 2020

01.11.2022, modified the punishment as compulsory retirement.

WEB COPY

However, based on the audit objection, the third respondent passed the impugned order, dated 10.03.2020, directing the petitioner to pay the loss caused by the petitioner, which is perfectly in order and the same does not warrant interference by this Court and prays for dismissal of this writ petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The petitioner committed irregularities in manufacturing prasadam in the third respondent temple and conducting prasadam stall. For which, based on the audit objection, the third respondent passed the impugned order of recovery of a sum of Rs.3,26,530/-. For the very same allegation, already departmental proceedings were initiated and the same ended in dismissal from service. Though the allegation against the petitioner was accepted by this Court, vide order dated 01.11.2022 made in W.P(MD)No.15670 of 2017, this Court modified the said punishment into compulsory retirement and directed the official



W.P.(MD)No.5780 of 2020

WEB COPY

respondents to implement the punishment and disburse the terminal benefits that is applicable to the petitioner. Hence, this Court has to follow the decision rendered by this Court in W.P(MD)No.15670 of 2017.

8. In view of the above, the impugned order of recovery is perfectly in order, which cannot be interfered with. The official respondents are directed to settle the terminal benefits to the petitioner after deducting the sum of Rs.3,26,530/-.

9. This Writ Petition is dismissed with the above observation. No Costs. Consequently, connected miscellaneous petitions are closed.

08.02.2023

pm

Index: Yes/No
NCC: Yes/No



W.P.(MD)No.5780 of 2020

To:

WEB COPY

- 1.The Commissioner,
H.R. & C.E. Department,
Chennai – 600 034.
- 2.The Joint Commissioner,
H.R. & C.E. Admin. Department,
Madurai – 625 003.



WEB COPY



W.P.(MD)No.5780 of 2020

M.DHANDAPANI, J.

pm

W.P.(MD)No.5780 of 2020

03.01.2023