

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15561 of 2020

K.Sivakumar

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai – 600 010.

2.The General Manager (Administration),
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk,
Chennai – 600 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent vide proceeding No.Se.Mu.Aa.No.AD1/15401/2016 dated 16.05.2018 and proceeding of the second respondent vide proceeding No.Se.Mu.Aa.No.AD7/17205/2015 dated 11.12.2015 and quash the same as illegal as devoid of merits and direct the respondents to hold fresh enquiry by providing reasonable opportunity to the petitioner.

For Petitioner : Mr.Raja Karthikeyan
for Mr.B.Rooban

For Respondents : Mr.H.Arumugam
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent Corporation.

2.The petitioner is working as Assistant Manager in the respondent Corporation. He was issued with charge memo dated 24.04.2015. It contained five articles of charge. The charges pertained to supervisory role performed by the petitioner in the matter of procurement and movement of paddy. An Enquiry Officer was appointed and report was submitted on 15.09.2015. The petitioner's further representation was also obtained. Thereafter, the disciplinary authority passed an order dated 11.12.2015 holding that the charges are proved and imposed punishment of stoppage of increment for a period of two years without cumulative effect. Aggrieved by the same, the petitioner filed appeal before the appellate authority. The appellate authority vide order dated 16.05.2018, confirmed the order passed by the original authority. Challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and

called upon this Court to set aside the impugned orders and allow the writ petition as prayed for.

4.The respondents have filed counter affidavit and the learned Standing Counsel took me through its contents. He pointed out that as a result of the writ petitioner's misconduct, Corporation was put to substantial financial loss. He called upon this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. I need not traverse all the contentions raised by the learned counsel appearing for the writ petitioner. The writ petition has to be allowed on one short ground. The order passed by the disciplinary authority runs to 16 pages. From Page Nos. 1 to 15, the antecedent facts have been merely reiterated in a summary form. In other words, what was been set out from Page Nos. 1 to 15 are only the charges, the explanation of the writ petitioner, findings set out in the enquiry report and the petitioner's further representation. The final operative portion of the order dated 16.05.2018 straightaway come to the conclusion that the petitioner failed to discharge the supervisory role and that he was wholly responsible for the loss that was caused to the Corporation. Finding of guilt was arrived at without any consideration at all. To use the expression 'cryptic' would be an understatement. It is a case of complete non-consideration of the petitioner's defence. The approach of the authority is

patently incorrect. The order of the appellate authority is also on the same lines.

6.In this view of the matter, the orders impugned in the writ petition are set aside. Since my interference is only on the ground of non-consideration of the petitioner's defence, I have to necessarily remand the matter to the file of the second respondent to pass order afresh on merits and in accordance with law. This writ petition is allowed on these terms. There shall be no order as to costs.

10.03.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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