



W.P.(MD).No.11296 of 2014

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11296 of 2014

and

M.P.(MD).No.2 of 2014

S.Murugesan

... Petitioner

Vs.

1.The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam,
Chennai – 600 108.

2.The Regional Deputy Director,
Tamil Nadu Khadi and Village Industries Board,
Bye Pass Road, Madurai.

3.The Regional Deputy Director,
Tamil Nadu Khadi and Village Industries Board,
Trichy.

4.The Assistant Director,
Tamil Nadu Khadi and Village Industries Board,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.18941/2010 E 4(1) dated 12.05.2014 on the file of the first respondent and quash the same as illegal.



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For Petitioner : Mr.J.Lawrance

For Respondents : Mr.Raguvaran Gopalan

ORDER

This Writ Petition is filed to quash the impugned order dated 12.05.2014.

2. The petitioner while working as a Superintendent was issued with a charge memo dated 06.07.2010, wherein the allegations against the petitioner is that he has arbitrarily issued certain information under RTI and has caused legal problems. Based on the petitioner's information, one G.Marimuthu, Khadi Inspector was exonerated from his charges. The said Marimuthu was facing the charge of embezzlement. The said Marimuthu has challenged the charge memo and domestic enquiry before this Court in W.P.(MD).No.6013 of 2005 and this Court vide order dated 29.07.2008 allowed the Writ Petition. The respondents have preferred a Writ Appeal in W.A.(MD).No.682 of 2008. Pending Writ Appeal, the said Marimuthu had sought information under RTI and the petitioner had replied and given information based on the records. Based on the information, the said Marimuthu was exonerated from charges. Therefore, the respondents have initiated action against the writ petitioner. The charge against the writ petitioner is that the writ petitioner has circulated the information



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without consulting with his appropriate higher authorities. The said Marimuthu relied on the said information and he was exonerated.

3. The paragraph 41 of the audit objection states that the amount was Rs.16,79,543/- but subsequently, the audit objection has reduced the amount to Rs.19,582/-. The petitioner while giving the information has stated that as far as para 41 is concerned, it has been completely deleted. The fact remains that it has not completely deleted, but it was reduced. However, the petitioner relied on the proceedings dated 05.05.2009 of Assistant Director, Tamil Nadu Khadi Board, Dindigul, wherein in the said proceedings it has been stated that the audit objection was completely deleted. Based on the said proceedings, the petitioner has given information. The petitioner has not scrutinized the information that was granted by the audit party vide letter dated 16.02.2009. On perusal of the proceedings dated 05.05.2009 of the Assistant Director, there is a reference under Serial No.4 regarding the letter issued by the audit dated 16.02.2009. The Assistant Director has erred in passing such proceedings, had the Assistant Director seen the audit party's letter dated 16.02.2009 properly, then the said error would not have occurred. The learned counsel appearing for the respondents submitted that the disciplinary proceedings was initiated against the Assistant Director and he was punished.



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4. Therefore, this Court is of the considered opinion that the communication of the Assistant Director, Dindigul is wrong and the petitioner had relied on the communication of the said Assistant Director, hence a liability cannot be fixed on the petitioner. Moreover, the erred Assistant Director was punished for his mistakes. By simply following the communication of the Assistant Director and replied under RTI, it cannot be termed as misconduct. The petitioner had no intention to commit any mistake. Therefore, this Court is inclined to interfere with the punishment order. Hence, the impugned order dated 12.05.2014 is quashed and the petitioner is entitled to the consequential benefits. The respondents are directed to repay the deducted increment to the petitioner. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

5. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

Nsr

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