



W.P.(MD).No.18436 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.18436 of 2015

and

M.P.(MD).No.1 of 2015

P.Ramakrishna Paramahamsar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its,
Secretary to Government,
Handlooms, Handicrafts,
Textiles and Khadi Department,
Secretariat,
Chennai – 9.

2.The Chief Executive Officer,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam,
Chennai – 8.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in G.O.Ms.No.116 Handloom, Handicrafts, Textile and Khadi (F1) Department dated 31.05.2013



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and consequential order in G.O.Ms.(2D) No. 04 Handloom, Handicrafts, Textile and Khadi (F1) Department dated 17.06.2014 and quash the same and direct the respondents to disburse the deducted amounts with all other benefits with interest at the rate of 18% per annum.

For Petitioner : Mr.V.Panneer Selvam
For R-1 : Mr.M.Lingadurai,
Special Government Pleader.
For R-2 : Mr.Raguvaran Gopalan

ORDER

This Writ Petition is filed to quash the Government Order dated 31.05.2013 and consequential Government Order dated 17.06.2014 and direct the respondents to disburse the deducted amounts with all other benefits with interest at the rate of 18% per annum.

2. Heard Mr.V.Panneer Selvam, the Learned Counsel appearing for the petitioner, Mr.M.Lingadurai, the Learned Special Government Pleader appearing for the 1st respondent and Mr.Raguvaran Gopalan, the Learned Counsel appearing for the 2nd respondent and perused the records.



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3. The petitioner joined the respondent service as Skilled Worker in 1960.

Subsequently, he was promoted to various posts. On 24.07.1996, the petitioner was placed under suspension. When he was due to retire on 31.03.1997, he was not allowed to retire and continued in suspension by an order dated 27.03.1997 on the ground that the disciplinary proceedings were pending against the petitioner. Challenging the same, the petitioner filed W.P.(MD)No.5015 of 1997 and the same was allowed vide order dated 13.10.2003. In the meanwhile, the charges were framed on 20.11.2000 on single count. The petitioner submitted his explanation and thereafter, the Government appointed an enquiry officer on 22.03.2005, the enquiry was conducted and report was submitted on 18.01.2006. The petitioner was called to submit further explanation for the enquiry report on 06.11.2006 and he also submitted the same. Since the respondents did not pass any order, the petitioner aggrieved over the same has filed W.P.(MD)No.12136 of 2008 challenging the charge memo dated 20.11.2000.

4. Another charge memo was issued on 12.11.2002 on three counts. The petitioner submitted explanation on 10.10.2003. The Enquiry Officer was appointed on 25.01.2005 and enquiry report was submitted on 14.07.2005. For



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this, the petitioner submitted his explanation on 04.02.2006. Since there was no response, the petitioner filed W.P.(MD)No.11775 of 2008 challenging the charge memo dated 12.11.2002. Both the aforesaid Writ Petitions were clubbed together and this Court was pleased to pass order dated 20.06.2012, directing the first respondent therein to pass orders within a period of four weeks. Thereafter, the first respondent has passed an order dated 25.02.2013 revoking the suspension order and allowed the petitioner to retire from service without prejudice to the disciplinary proceedings. On the same day, the second show cause notice was issued indicating the proposed punishment giving time of 15 days to submit reply. The petitioner submitted his reply on 13.03.2013. The first respondent has passed the final order in disciplinary proceedings in G.O.Ms.No.116 Handloom, Handicrafts, Textile and Khadi (F1) Department dated 31.05.2013 imposing the punishment of deduction of Rs.1 Lakh from Death Cum Retirement Gratuity and Rs.700/- per month in the pension for the period of three years. As against the same, the petitioner filed review application. Since no order is passed, the petitioner approached this Court by way of filing W.P.(MD)No.1377 of 2014 seeking to settle the terminal benefits including pension benefits with interest and the same was disposed of vide order dated 21.07.2014. Thereafter, a Contempt Petition was filed alleging



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disobedience of the order passed by this Court in Cont.P.(MD)No.558 of 2014, thereafter the respondents have disbursed the terminal benefits after deducting the aforesaid one lakh amount. The petitioner was again forced to file another Writ Petition in W.P.(MD)No.4834 of 2014 to direct the first respondent to dispose the Review Petition and this Court vide order dated 19.03.2014 directed to dispose review petitioner within a period of eight weeks. Thereafter, review petition was rejected by confirming the original order without assigning any reasons in G.O.Ms.(2D)No.04 dated 17.06.2014.

5. The respondents have filed a counter stating the first charge memo was issued for the charge of bribery and the second charge memo was issued for the discrepancies in purchasing the materials.

6. It is seen that the petitioner was suspended on 24.07.1996 and the first charge memo was issued on 20.11.2000 for the alleged occurrence in the year 1995-1996. As rightly pointed out by the Learned Counsel appearing for the petitioner there is inordinate delay in issuing charge memo. Moreover, when the petitioner was due to retire on 31.03.1997, the respondent passed an order not to allow to retire from service. Then the Department issued another charge



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memo dated 12.11.2002 in supersession of the earlier charge memo for the same alleged occurrence of the year 1995-96 and they passed final order on 31.05.2013 after the delay of 17 years. When issuing the first charge memo itself there was inordinate delay, the second charge memo issued by supersession of the earlier charge memo also suffers from the principles of inordinate delay. It is seen the respondents have framed charges after lapse of 3 years from the date of superannuation and then issued another charge memo in supersession of the earlier charge memo after a lapse of five years. Therefore, this Court is of the considered opinion that there is an inordinate delay in framing the charges. More so when the final order was passed on 31.05.2013 after lapse of 17 years. Literally the petitioner had spent the entire retired life on the disciplinary proceedings. As on date the petitioner died. Therefore, this Court is of the considered opinion that the initiation of disciplinary proceedings itself suffers from the principles of inordinate delay.

7. The further contention of the petitioner is that he is the senior citizen aged about 77 years at the time of filing of this Writ Petition. Only because of the reason of change of regime, the petitioner was penalized and till date, he was suffering without any fault on him. On perusal of the charges, it is seen that



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there was two committees in fixing the price for charges. There was a representation to the Minister and thereafter after there was some disputes. Therefore, the contention of the petitioner that since there was change in regime the present charge has been framed is believable. The petitioner was facing the disciplinary proceedings after retirement for a period of 15 years.

8. For the reasons stated above, this Court is interfering with the impugned order and the impugned orders are quashed. The respondents are directed to repay the deducted amount from gratuity and also the amount that was deducted from the pension. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. Pending Writ Petition, the writ petitioner died. The learned counsel appearing for the petitioner submitted that the legal heirs are still alive and one of them is disabled child. Therefore, the respondents are directed to ascertain the legal heirs and disburse the amount to the legal heirs.



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WEB COPY 9. In view of the above, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

20.06.2023

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

To

1.The Secretary to Government,
The State of Tamil Nadu,
Handlooms, Handicrafts,
Textiles and Khadi Department,
Secretariat,
Chennai – 9.

2.The Chief Executive Officer,
Tamil Nadu Khadi and Village
Industries Board,
Kuralagam,
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S.SRIMATHY, J.

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