



WEB COPY



W.A.Nos.406, 1563, 1578 & 1505 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

W.A.Nos.406, 1563, 1578 & 1505 of 2011

[W.A.No.406 of 2011]

1. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.692 Anna Salai, Chennai-600 035.

2. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.692 Anna Salai, Chennai-600 035.

... Appellants

Vs.

R.Thirumalai

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.12.2010 made in Writ Petition No.20423 of 1999 on the file of this Court and consequently, dismiss the writ petition with costs.



WEB COPY



W.A.Nos.406, 1563, 1578 & 1505 of 2011

For Appellants : Mr.P.Kumaresan, AAG,
assisted by Mr.B.Balaji

For Respondent : No appearance

[W.A.No.1563 of 2011]

1. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.692 Anna Salai, Chennai-600 035.

2. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.692 Anna Salai, Chennai-600 035.

... Appellants

Vs.

P.Mathivananan

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.12.2010 made in Writ Petition No.5559 of 2000 on the file of this Court and consequently, dismiss the writ petition with costs.

For Appellants : Mr.P.Kumaresan, AAG,
assisted by Mr.B.Balaji

For Respondent : Mr.M.Ravi



W.A.Nos.406, 1563, 1578 & 1505 of 2011

[W.A.No.1578 of 2011]

WEB COPY

1. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.473 Anna Salai, Chennai-600 035.

2. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.473 Anna Salai, Chennai-600 035.

... Appellants

Vs.

V.Selvaraj

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.12.2010 made in Writ Petition No.13862 of 2000 on the file of this Court.

For Appellants : Mr.P.Kumaresan, AAG,
assisted by Mr.B.Balaji

For Respondent : Mr.M.Ravi

[W.A.No.1505 of 2011]

1. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.473 Anna Salai, Chennai-600 035.



W.A.Nos.406, 1563, 1578 & 1505 of 2011

2. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.473 Anna Salai, Chennai-600 035. ... Appellants

Vs.

G.Hariharan ... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 22.12.2010 made in Writ Petition No.18906 of 2000 on the file of this Court and consequently dismiss the writ petition with cost.

For Appellants : Mr.P.Kumaresan, AAG,
assisted by Mr.B.Balaji

For Respondent : Mr.K.M.Ramesh (Senior Counsel)
for Mr.V.Subramani

COMMON JUDGEMENT

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The lis on hand has been instituted questioning the validity of the writ order dated 22.12.2010, passed in a batch of writ petitions. The



W.A.Nos.406, 1563, 1578 & 1505 of 2011

respondents in the writ petitions are the writ appellants in this writ appeals and the respondents in the present writ appeals instituted writ proceedings questioning the validity of the order of dismissal from service.

2. It is not in dispute that the departmental disciplinary proceedings were initiated against the respondent employees and charge memos were issued. An Inquiry Officer was appointed, who in turn conducted an inquiry and submitted his final report. The findings in the final inquiry report was accepted by the Management and after following the procedures as contemplated, the orders of dismissal were issued. Challenging the dismissal orders, the writ petitions were filed and the learned Single Judge considered the issues raised between the parties in the writ proceedings and remanded the matter back to the authorities to conduct *de novo* inquiry by setting aside the orders of dismissal from service. Thus, the present writ appeals are instituted.

3. The learned Additional Advocate General, Mr.P.Kumaresan, appearing on behalf of the appellants would submit that the procedures as contemplated were followed and sufficient opportunities were provided to the delinquent employees. Thus, there is no infirmity and remanding the



W.A.Nos.406, 1563, 1578 & 1505 of 2011

matter would not arise and consequently, the order passed in the writ petitions are to be set aside.

4. The learned Senior Counsel Mr.K.M.Ramesh and Mr.M.Ravi, appearing on behalf of the respondents would oppose by stating that the appellants have violated the rules of natural justice, and the employees have raised several grounds, including the failure to provide an opportunity to defend their case. The Presenting Officer, appointed by the Disciplinary Authority was legally trained and the delinquent officials were not permitted to engage a lawyer or co-employee for the purpose of defending their case. That apart, the documents relied upon by the Presenting Officers were not provided nor the delinquent officials were allowed to peruse those documents. Considering these vital grounds regarding violations of rules of natural justice, the learned Single Judge remanded the matter back for conducting *de novo* inquiry and thus, there is no infirmity and all the writ appeals deserve to be rejected.

5. Considering the rival submissions made, we are of the considered opinion that departmental disciplinary proceedings are to be conducted by following the rules of natural justice. The delinquent officials are entitled to



W.A.Nos.406, 1563, 1578 & 1505 of 2011

defend their case based on the established principles and in the present case, the Presenting Officer, is law graduate and previously a practising advocate. Therefore, the delinquent officials are entitled to have defense assistant to defend their case. The learned single Judge considered the said ground and further a considered that the documents relied on by the Presenting Officer were not furnished to the delinquent officials nor they were permitted to peruse the documents and consequently, remanded the matter back for conducting *de novo* inquiry.

6. The respondent employees are entitled to have a defence assistant from amongst the co-employee or the retired employee. Further it is brought to our notice that the charge memo has been issued independently to the respondent employees. Thus, an inquiry is to be conducted independently with reference to the charge memo issued to the delinquent officials.

7. Learned Senior Counsel, Mr.K.M.Ramesh and Mr.M.Ravi would submit that the petitioners are entitled for subsistence allowance. However, we found that the writ order has not been implemented by the appellant Management and the respondent employees were not reinstated in service.



W.A.Nos.406, 1563, 1578 & 1505 of 2011

Therefore, they are not eligible for subsistence allowance at present.

However, after passing of the final order in the departmental disciplinary proceedings and reaching finality, their entitlement for the service benefits are to be considered subject to the outcome of the inquiry proceedings.

8. All the respondents are even now under suspension on account of the pendency of the present writ appeals. It is needless to state that after issuing the charge memo, an Inquiry Officer is to be appointed, who in turn has to conduct inquiry by affording opportunity to the delinquent officials and to the department. Inquiry Officer is expected to act as a neutral person and find out the facts regarding the allegations raised in the charge memo. Therefore, in respect of confidential documents, the delinquent officials or their defence assistant shall be permitted to peruse those documents and in respect of other documents, they are entitled to have copy. After conducting the inquiry, report has to be submitted with clear findings. Thereafter, the disciplinary authority has to follow the procedures for the purpose of passing final orders.

9. In the present case, the learned single Judge considered the



W.A.Nos.406, 1563, 1578 & 1505 of 2011

ground that the respondents were not afforded with an opportunity in compliance with the rules of natural justice. The delinquent officials were permitted to engage a defence assistant for which they are legally entitled. The relevant documents relied on by the Presenting Officer is to be furnished or at least the delinquent officials must be permitted to peruse those documents in order to defend their case. Since these two grounds are relied on for the purpose of allowing the writ petitions, we are not inclined to interfere with the order passed in the writ proceedings.

10. However, we made it clear that the *de novo* inquiry is directed to be conducted within a reasonable period of time. In this context, the respective learned Senior Counsels and the learned Additional Advocate General would submit that the inquiry proceedings are to be concluded within a reasonable period of time since the respondents are under suspension. More so, the disciplinary proceedings are pending for long years. Considering the said submissions, we are inclined to direct the appellant Management to proceed with the departmental disciplinary proceedings initiated and conclude the same by following the due process and pass final orders within a period of three (3) months from the date of receipt of a copy of this order. The respondents / delinquent officials are



W.A.Nos.406, 1563, 1578 & 1505 of 2011

directed to cooperate for the speedy disposal of the departmental disciplinary proceedings. In the event of non-cooperation on the part of the delinquent officials, the authorities competent shall record the same in the proceedings itself and proceed with the matter accordingly.

11. With these directions, the writ appeals are disposed of. No costs.

(S.M.S.J.,)

(C.K.J.,)

03.06.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)



W.A.Nos.406, 1563, 1578 & 1505 of 2011

To
WEB COPY

1. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.692 Anna Salai, Chennai-600 035.
2. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.692 Anna Salai, Chennai-600 035.
3. Board Of Directors,
The Tamilnadu Industrial Investment Corporation Ltd.,
Rep. by its Chairman,
No.473 Anna Salai, Chennai-600 035.
4. The Managing Director,
The Tamilnadu Industrial Investment Corporation Ltd.,
No.473 Anna Salai, Chennai-600 035.



WEB COPY



W.A.Nos.406, 1563, 1578 & 1505 of 2011

S.M.SUBRAMANIAM, J.

and

C.KUMARAPPAN, J.

(sha)

W.A.Nos.406, 1563, 1578 & 1505 of 2011

03.06.2024