



W.P.No.19999 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.19999 of 2011

R.Samidurai

....Petitioner

Vs

1. Tamilnadu Civil Supplies Corporation
Represented by its Managing Director,
12, Thambusamy Road,
Kilpauk,
Chennai-10.
2. Manager (Administration) -II,
Tamilnadu Civil Supplies Corporation,
12, Thambusamy Road,
Kilpauk,
Chennai – 10.
3. The District Collector,
Namakkal.
4. Tahsildar,
Namakkal.

....Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records on the file of the impugned orders of the 4th Respondent dated 27.07.2011 bearing Ref.No.Nil and that of the 2nd Respondent dated 05.08.2011 bearing Ref.No.Na.Ka.No.AD6/53177/2007 and quash the same and consequently forbear the respondents from in any manner from initiating proceedings against the petitioner for recovery of a sum of Rs.9,42,400/-.

For Petitioner : Mr.R.Saravanan
for Mr.Sai Bharath and Ilan

For R1 & R2 : Mr.C.Selvaraj
Standing Counsel

For R3 & R4 : Mr.D.Gopal
Government Advocate

ORDER

The Writ Petition has been filed calling for the records on the file of the impugned orders of the 4th Respondent dated 27.07.2011 bearing Ref.No.Nil and that of the 2nd Respondent dated 05.08.2011 bearing Ref.No.Na.Ka.No.AD6/53177/2007 and quash the same and consequently forbear the respondents from in any manner from initiating proceedings against the petitioner for recovery of a sum of Rs.9,42,400/-.



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2. It is the submission of the learned counsel for the petitioner that, petitioner was working as Assistant Quality Inspector under the 1st respondent Corporation. There was an inspection in the godown on 12.01.2000 alleging shortage of stock. For the said incident, petitioner was suspended from service. He was prosecuted for the offence under Section 409 of IPC in C.C.No.57 of 2005. He was also issued a charge memo on 21.02.2000. Punishment for dismissal from service was imposed on the petitioner on 17.07.2001. His appeal was rejected on 07.11.2002. Petitioner filed W.P.No.27817 of 2006 before this Court. This Court considering the petitioner's acquittal in criminal case, set aside the order passed in the appeal and remitted back the matter to the Appellate Authority to pass fresh orders considering the decision made in C.C.No.57 of 2005. However, without application of mind and without considering the acquittal, the punishment of dismissal from service was again passed as against the petitioner on 09.02.2011. Petitioner filed contempt application in Cont.P.No.492 of 2011 and the same was dismissed. Meanwhile, 4th respondent issued an impugned order compelling the petitioner to pay a sum of Rs.9,42,400/- without any authority under the law. He further submitted that, there is no provision under law to recover the amount under



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the Tamil Nadu Revenue Recovery Act. In support of his submission, he produced the judgement of this Court in W.A (MD).No.216 of 2011 in M.Gnanaprakasam Vs. The Tamil Nadu Civil Supplies Corporation Ltd and others.

3. In response, the learned counsel for the respondent submitted that, charges against the petitioner is that, petitioner committed serious irregularity causing loss to the tune of Rs.9,42,400/- and therefore, this amount is due to the Government and it must be recoverable from the petitioner and the issuance of distraint order for recovering the loss is in accordance with law.

4. Considered the rival submissions and perused the records. In the light of the facts above and the judgement of this Court in W.A(MD).No.216 of 2011, this matter has to be decided. In an identical factual situation in W.A (MD).No.216 of 2011 this Court found that, there is no provision under the Service Rules of the Corporation to enable the Corporation to recover the loss caused because of the delinquencies of the employee, as land revenue. In the said circumstances, following order was



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passed.

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4. *Upon hearing the learned counsel for the appellant, we required Mr.Mohankumar, learned counsel appearing for the Corporation to report as to whether there is any provision in the Service Rules of the Corporation to enable the Corporation to recover the loss caused because of the delinquencies of the employee, as land revenue.*

5. *The learned counsel, upon instructions, would submit that there is no such provision under the Service Rules of the Corporation enabling the Corporation to recover the loss, as if it is arrears of land revenue. In the absence of such enabling power, we do not think that the Tamil Nadu Revenue Recovery Act, could be invoked by the respondent - Corporation to recover the loss caused by the misconduct of an Officer of the Corporation. In view of the same, we have no other option but allow the Writ Appeal, setting aside the order of the Writ Court.*

6. *The Writ Appeal will stands allowed. The impugned demand, dated 10.09.2008, will stands quashed. No costs. It is open to the Corporation to recover the loss by taking appropriate legal proceedings. No costs. Consequently, connected miscellaneous petitions are closed*



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5. In the light of the above referred order, this Court is of the view that, this order squarely applies to the facts of the present case. Therefore, this Writ Petition is allowed by quashing the impugned order of the 4th Respondent dated 27.07.2011 2nd Respondent dated 05.08.2011. However, it is open to the Corporation to recover the loss by taking appropriate legal proceedings in the manner known to law. No costs.

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Index :Yes/No

Internet:Yes/No

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G.CHANDRASEKHARAN, J

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