



W.P.No.19034 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **22.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.19034 of 2010

K.Jayaraman

....Petitioner

Vs

1. Tamil Nadu Minerals Ltd.,
Chennai 5, rep by its
Chairman and Managing Director.

2. Chairman and Managing Director,
Tamil Nadu Minerals Ltd.,
Chennai -5

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorari calling for the records, relating to the order passed by the 2nd respondent in Se.Mu.Aaa.No.25262/E1/01 dated 22.03.2010, as confirmed by the order of the 1st respondent in Rc.No.25262/E1/2001 dated 12.07.2010 and quash the same.

For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates
For Respondents : M/s. A.Srijayanthi



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ORDER

The Writ Petition has been filed to call for the records, relating to the order passed by the 2nd respondent in Se.Mu.Aaa.No.25262/E1/01 dated 22.03.2010, as confirmed by the order of the 1st respondent in Rc.No.25262/E1/2001 dated 12.07.2010 and quash the same.

2. The learned counsel for the petitioner submitted that, petitioner had joined as Junior Assistant in Tamil Nadu Minerals Limited. Later he was promoted as Superintendent and was posted in the Divisional Office, Krishnagiri. There is a store attached to the Divisional Office and it is looked after by the Store Keeper and it is his responsibility for receiving the materials and releasing the same on the basis of indents given to him. As per the Office Order dated 17.05.1999 issued by the Divisional Manager with regard to allocation of works, Store Keeper is in charge of the store room and one Murugesan was incharge of the Store Room as Superintendent. Petitioner's job was, in addition to the Office Establishment, he was incharge of over all supervision of work in Production Section, Store Section and Labour Section. One Murugesan



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committed misappropriation of store materials including Diamond Wire kept in the Store on 22.12.2001. Petitioner attended training programme at Trichy on that day. He joined duty only after the Christmas Holidays on 26.12.2001. He was informed about the missing diamond wire by the Store Keeper. Then, Divisional Manager enquired the Store Keeper and four Watchmen and obtained their statements. Criminal Case was registered against the Store Keeper Murugesan. A charge memo dated 22.01.2002 was served on the petitioner for negligence of duty and responsibility. Petitioner submitted his explanation on 06.02.2002 and Enquiry Officer was appointed. After enquiry, he submitted his report on 29.01.2009 holding that the charges against the petitioner were proved. Petitioner was permitted to retire on 31.01.2009 without prejudice to the disciplinary proceedings. Thereafter, 2nd respondent passed an order on 22.03.2010 ordering recovery of Rs.50,000/- from petitioner's terminal benefits. Against this order, petitioner filed an Appeal and it was rejected without considering the petitioner's request. Therefore, present Writ Petition is filed.

3. It is the submission of the learned counsel for the petitioner that, petitioner's job was only to verify the stocks in the Store Room once in



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three months. He was not incharge of the day to day supervision of the stocks available in the Store Room. Store's incharge namely Murugesan was alone responsible for the stocks in the Store Room and that was the reason why criminal prosecution had been launched against him. The last verification was made by the petitioner on 01.10.2001. The next inspection was due to take place only on 01.01.2002. Prior to next verification, ie., on 01.01.2002, Store keeper has committed theft/misappropriation of stocks. Thus, he prays for setting aside the impugned orders passed by the 2nd respondent and confirmed by the 1st respondent.

4. In reply, learned counsel for the respondent submitted that, petitioner was also responsible for the stocks available in the Store Room and it is his duty and responsibility to ensure that he properly supervised the stocks available in the Store Room. Having he failed to do so, he was rightly proceeded with the Departmental Proceedings. Enquiry Officer found guilty of the negligence of his duty and responsibility and that was the reason why recovery order was passed. Thus, he prays for dismissal of this Writ Petition.



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5. Considered the rival submissions and perused the records. From the submissions and materials perused, the point to be decided is whether, petitioner can be made responsible for the theft/misappropriation of stocks available in the Store Room by the Store Keeper Murugesan. It is not in dispute that, criminal prosecution was launched against Murugesan and the same was ended in conviction in C.C.No.63 of 2003. He was imposed a punishment of 2 years rigorous imprisonment with a fine of Rs.2,000/- under Section 409 of IPC. When a person directly involved in the commission of the offence of misappropriation was criminally prosecuted, convicted and sentenced, the question now arises is, whether petitioner as a Superintendent can be made liable to pay a sum of Rs.50,000/- .

6. When the matter was taken up for hearing on 15.02.2024, learned counsel for the petitioner produced the proceedings in Proceeding No.1200 E/99 dated 17.05.1999 issued by the Divisional Manager, Tamin, Krishnagiri with regard to work allocation of Superintendent, wherein it was stated that, one of the works to be done is verification of stocks once in every three months. This proceeding does not directly relate to the petitioner, but relates to one M.Govindasamy, who was a Superintendent



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during the relevant period.

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7. The learned counsel for the respondent submitted that, this proceeding cannot be accepted for the reason that, it does not relate to the petitioner and undertook to produce the proceedings issued to the petitioner on the next hearing. When the matter is taken up today, the learned counsel for the respondent submitted that, he is not able to trace the proceedings issued to the petitioner with regard to work allocation.

8. Therefore, from the available materials ie., proceedings of the Divisional Manager, Tamin, Krishnagiri in Proceeding No.1200 E/99 dated 17.05.1999, it can be concluded that, only job that could be allocated to the petitioner, in so far as the Store Room is concerned, is that he had to verify the stocks in every three months. It is not as though, he has to verify the stock on daily basis. It is not in dispute that, last verification was made by the petitioner on 01.10.2001 and the next verification was due on 01.01.2002, meanwhile Murugesan committed theft/misappropriation.

9. Taking all these aspects into consideration, especially the nature of job requirement of the petitioner in so far as the Store Room is concerned



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that, he had to verify the stock only once in three months, this Court is of the view that, petitioner cannot be held responsible for the misappropriation committed by the Store Keeper Murugesan. Therefore, order passed by the respondents for recovery of Rs.50,000/- from the petitioner's terminal benefits is not correct and in accordance with law. Thus, the order passed by the 2nd respondent in Se.Mu.Aaa.No.25262/E1/01 dated 22.03.2010, confirmed by the order of the 1st respondent in Rc.No.25262/E1/2001 dated 12.07.2010 are hereby set aside.

10. Accordingly, this Writ Petition is allowed. No costs.

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Index :Yes/No
Internet:Yes/No
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G.CHANDRASEKHARAN, J

Sma

To

1. Tamil Nadu Minerals Ltd.,
Chennai 5, rep by its
Chairman and Managing Director.
2. Chairman and Managing Director,
Tamil Nadu Minerals Ltd.,
Chennai -5

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