



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.27336 of 2015
and M.P.No.1 of 2015

C.Alagesan

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Petitioner

versus

1.The Managing Director,
Tamilnadu Civil Supplies Corporation,
12, Tambusamy Road,
Kilpauk,
Chennai - 600 010.

2.The Senior Regional Manager /
District Revenue Officer,
Tamilnadu Civil Supplies Corporation,
Nagapattinam Region,
Nagapattinam,
Nagapattinam District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from deducting any Movement Recovery from petitioner's salary for the alleged pecuniary loss for the weight loss in paddy bags stored in the Direct Purchase Centers (DPCs) and consequently direct them to comply with the



undertaking recorded in the order dated 12.12.2012 made in W.P.No.13387 of 2005 by considering his representation dated 05.08.2015.

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For Petitioner : M/s.R.Adithya Shri
for Mr.N.Manokaran

For Respondents : Mr.P.Ananda Kumar
Government Advocate

ORDER

The writ petition is filed to forbear the respondents from deducting any movement recovery from the salary of the petitioner for the alleged pecuniary loss for the weight loss in paddy bags stored in the Direct Purchase Centers (in short, 'DPCs') and consequently direct them to consider the representation of the petitioner dated 05.08.2015 in the light of the undertaking recorded in the order dated 12.12.2012 in W.P.No.13387 of 2005.

2. The petitioner was appointed as a Bill Clerk on 08.02.1983 in the respondent Corporation to work in the DPCs. The respondent, Tamil Nadu Civil Supplies Corporation, had established a number of DPCs to procure paddy from the agriculturists and each of the DPCs is being managed by a Bill Clerk, a helper and a watchman under the control and



supervision of a Purchase Officer (Purchase and Movement) appointed for five DPCs.

3. It is the further contention that as per the Tamil Nadu Civil Supplies Corporation's manual, the paddy procured by the DPCs, should be taken to the storage point, such as Godown, within 48 hours from the time of procurement. However, the movement of paddy from DPCs, to the storage points has been delayed due to the delayed transportation through lorries, for want of the required number of storage points to accommodate the paddy.

4. Further, the moisture level of paddy procured from the ryots may vary from a minimum of 12% to a maximum of 25% and after procurement, the moisture level in paddy bags will be reduced, which will ultimately result in weight loss. As such, the Corporation has issued Circulars permitting moisture level upto 18% and if it exceeds 18%, the respondent Corporation is at liberty to compensate the loss for the value of paddy.



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5. In order to fix the norms, the matter was placed before the Board and a resolution was passed on 24.02.2004. Based on which, a Circular was issued by the first respondent in Circular No.44/2004 dated 10.03.2004, fixing the norms in respect of recovery. The circular was the subject matter of challenge filed by the Union in W.P.No.13387 of 2005 and by order dated 12.12.2012, the writ petition was disposed of by recording the submissions of the respondents that, based on the circular, no penalty or any recovery can be made on the employees for the storage loss if the storage exceeds more than four days in the Direct Purchase Centers.

6. However, de hors the orders, the respondents proceeded to issue notices to the seasonal employees of the DPCs and some of the show cause notices issued in respect of the similarly placed persons like the petitioner were challenged before this Court in W.P.No.18222 of 2015 and others. As far as the petitioner is concerned, it is his claim that the respondents have already arbitrarily recovered a sum of Rs.11,579/- from his salary for the months of June and July 2015. In this regard, the petitioner had submitted a representation dated 05.08.2015 and preferred the above writ petition to restrain the respondents from making any further recovery.



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7. The learned counsel appearing for the petitioner by relying on the order passed by this Court dated 26.03.2024 in W.P.No.18222 of 2015 submitted that already the issue has been decided by this Court and the writ petition was ultimately allowed by setting aside the show cause notice and the respondents have been directed to act in compliance with the undertaking recorded by them in the earlier writ petition.

8. The learned counsel further submitted that since the petitioner had already attained the age of superannuation and a sum of Rs.11,579/- had been recovered and the representation submitted by him is still pending consideration before the respondents, the same may be considered on merits and a decision may be taken in respect of refund of the amount.

9. The learned Government Advocate appearing for the respondents fairly submitted that the representation submitted by the petitioner dated 05.08.2015 will be considered on merits and in the light of the orders passed in other writ petition and the decision will be communicated to the petitioner.



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10. In the writ petition filed by one of the employees in the DPCs, against whom a show cause notice was issued for recovery, this Court, by order dated 26.03.2024 in W.P.No.18222 of 2015, has allowed the writ petition by quashing the show cause notice and the respondents were given liberty to act in compliance with the undertaking recorded in the order dated 12.12.2012 in W.P.No.13387 of 2005.

11. For the easy reference, the relevant portion of the above order is extracted hereunder:-

“6. The petitioner was working in the DPCs on seasonal basis during the two harvest seasons for the procurement of paddy, directly from the agriculturists. The petitioner used to work there on a continuous basis only for the two harvest seasons at the DPCs and his job was to see that the procured paddy is being transported to the godowns or to the mills. On account of moisture and delay in transportation, there used to be a reduction in weight of the paddy which was procured. Circulars were issued that the loss can be up to 18%, on account of reduction of moisture and delay in transportation and if at all the loss was beyond 18% staff members of the DPCs were made responsible.

7. The same was challenged by the High Court in W.P.No.13387 of 2005, wherein it was held that basing on the circular no costs or no recovery can be made from the employees for storage losses. These orders were passed basing on the undertaking by the learned Additional



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Advocate General. However, contrary to the said undertaking the impugned show cause notice was issued to the petitioner for recovery of money in respect of the loss sustained on account of transportation and other reasons. Therefore, on these grounds the show cause notice shall not sustain.

8. Further, show cause notice has been given seeking explanation from the petitioner within seven days as to why the money as mentioned in the show cause notice shall not be recovered from the petitioner.

9. The respondent Corporation has not followed the principles of natural justice. After the petitioner was issued show cause notice seeking for explanations. The petitioner had sent a number of representations requesting the respondents to give the break up details as to in which center in which period how much loss was caused by the petitioner. Similarly, they requested permission to peruse the records which made the basis for issuance of the show cause notice.

10. It is the case of the petitioner that if that records were made available, the petitioner will prove his innocence. Several attempts were made directly or through Right to Information Act (RTI) to go through the records. Further, show cause notice was issued in the year 2014 in respect of the loss that has been committed during the years 1992 to 2001. Unless records are available to the petitioner to peruse, unless break up figures are given, it is very difficult for the petitioner to reply to the show cause notices. The petitioner was employed temporarily during the procurement season. If at all, there is a loss in the procurement of paddy during the years 1992 to 2002 the respondents were expected to immediately seek for an explanation, after completion of the season so that the petitioner could have been in a position to answer properly as to the reasons for the loss occurred. If at all, the petitioner is responsible for any loss during the year 1992 or subsequent years, the respondents should



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not have employed him for the work for the subsequent years also. No notices were issued to the petitioner from the year 1992 until 2014. Without considering any records notice was issued. Further, there is record to show that the petitioner is responsible for the losses occurred.

11. In view of the above, this writ petition is allowed and the impugned order dated 06.05.2015 is hereby quashed and the respondents are at liberty to act in compliance with the undertaking recorded in the order dated 12.12.2012 made in W.P.No.13387 of 2005. No costs. Connected M.P. is closed.”

12. It could be seen that in respect of the recovery made from the employees for the storage losses, in fact, already in the writ petition filed by the Union, based on the undertaking given by the respondents, the same was disposed of by observing that the recovery cannot be made from the employees in respect of the storage loss which exceeds more than four days.

13. In the instant case, since the petitioner had already been superannuated from service and already a sum of Rs.11,579/- has been recovered, it would suffice to direct the respondents to consider the representation of the petitioner dated 05.08.2015 in respect of the refund of the amount that has been deducted from the salary of the petitioner.



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14. In view of the same, this Writ Petition stands ***disposed of***, by directing the respondents to consider the representation of the petitioner dated 05.08.2015 on merits and in the light of the orders passed in W.P.No.18222 of 2015 dated 26.03.2024 within a period of eight(8) weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

15. There shall be no order as to costs.

12.11.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The Managing Director,
Tamilnadu Civil Supplies Corporation,
12, Tambusamy Road,
Kilpauk, Chennai - 600 010.

2.The Senior Regional Manager /
District Revenue Officer,
Tamilnadu Civil Supplies Corporation,
Nagapattinam Region,
Nagapattinam,
Nagapattinam District.

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G.ARUL MURUGAN, J.

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