



WEB COPY



W.P.No.9364 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9364 of 2022

P.A.Murugappan

...Petitioner

-Vs-

1. Tamil Nadu Water Supply and Drainage

Board, represented by its Managing Director,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

2. Managing Director,

Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

3. The Chairman,

Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in Procs No.3659/Estt.(DP)/A4/2010, dated 26.02.2022 passed by the third respondent confirming the order passed by the second respondent in Procs



W.P.No.9364 of 2022

No.2711/Estt.(DP)/A4/2007, dated 26.09.2008 and quash the order and consequently directing the respondents to pay the Earned Leave and Unearned Leave Salary at the credit of petitioner's leave accounts at the time of retirement as per pension rules and repaying Rs.2500/- recovered from the Death Cum Retirement Gratuity along with interest at 12% per annum.

For Petitioner : Mr.T.N.Rajagopalan

For Respondents : Mrs.Y.Kavitha
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the third respondent dated 26.02.2022, thereby confirming the order passed by the second respondent dated 26.09.2008, thereby rejected the request made by the petitioner to pay the Earned Leave and Unearned Leave Salary with interest at the credit of his leave accounts at the time of retirement as per pension rules and repaying Rs.2500/- recovered from the Death Cum Retirement Gratuity along with interest at 12% per annum.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and perused the materials available on record.



W.P.No.9364 of 2022

3. The petitioner had served in various capacities in the Tamil Nadu Water Supply and Drainage Board and retired from service on his attainment of superannuation as Assistant Accounts Officer, on 30.09.2008. While he was in service, on 10.01.2007, he was placed under suspension and charged that he had misappropriated the Board's funds in claiming the bills of two water supply schemes. Thereafter, the petitioner was served with a charge memo under Regulation 9(b) of TWAD Board Employees (Discipline and Appeal) Regulation 1972 listing out four charges dated 11.07.2007. An enquiry was conducted and enquiry report was filed. As per the enquiry report, charges 1, 2 and 4 were held as “not proved” and the charge 3 was held to “be proved”. After receipt of the explanation submitted by the petitioner, the second respondent by its proceedings dated 26.09.2008 awarded punishment of Rs.2,500/-. Aggrieved by the same, the petitioner preferred an appeal before the Board, viz., the first respondent on 22.10.2008.

4. The first respondent by its proceedings dated 18.08.2009 confirmed the order passed by the second respondent. It was challenged before this Court in W.P.No.26715 of 2009 and the same was allowed by an order dated 03.12.2021, on the ground that the authority who passed the final order



W.P.No.9364 of 2022

perusing on the enquiry report the Managing Director of TWAD Board who also acted as Appellate Authority. Since both the authorities are one and the same, the order passed by the second respondent was set aside and thereby this Court remitted the appeal to the file of the first respondent therein to consider afresh and pass orders. By an order dated 26.02.2022, once again the third respondent herein dismissed the appeal and confirmed the punishment imposed on the petitioner.

5. As per the charge memo, the Charge No.3 is as follows:-

“ He has failed to put up office note to the Executive Engineer pointing out that the amount kept idle for the period from 17.04.2006 to 22.12.2006 has to be remitted to the Board as per 6(X) of the TWAD Board Employees (Discipline and Appeal) Regulation, 1972”.

The enquiry officer held that the petitioner failed to put up an office note to the Executive Engineer.

6. The learned counsel for the petitioner contended that the second respondent having been accepted the fact that the petitioner had put up the file to the Executive Engineer, exceeded its jurisdiction and had passed an order of punishment for the charge not framed against the petitioner and created new



W.P.No.9364 of 2022

aspect of charge that the petitioner failed to inform the fact to the Finance Director. He further submitted that it is not his duty to inform the Finance Director and that it is the duty of the Executive Engineer to inform the Finance Director, since the petitioner had no authority to correspond with the Finance Director.

7. A perusal of records revealed that when the petitioner was working as Junior Accounts Officer at the office of the Executive Engineer, TWAD Board Maintenance Division at Erode, from 25.05.2005 to 10.01.2007, the LS-I and final bill for Rs.26,14,901/- and Rs.16,20,475/- were prepared for both Kattur CWSS and Kollkaradu CWSS, which were submitted by the Assistant Executive Engineer. It was submitted without the required certificates such as PDI certificate, Guarantee certificate, Post Installation certificate, performance certificate and other certificates. The Junior Assistant of Division Office has simply made pass order entries for Rs.23,57,437/- and Rs.14,60,922/- for both CWSS, on 30.03.2006 in the Bill and M.Book. He had put up the Bill with M.books to the Executive Engineer through the Junior Accounts Officer, viz., the petitioner herein. The petitioner should have pointed out the lapses to the Executive Engineer by an Office note and returned the Bill with M.Books to the



W.P.No.9364 of 2022

Assistant Executive Engineer. But he has failed to do so and simply made his side initial in the Bill and M.Book on 30.03.2006. He had put up projection to the Executive Engineer and he had sent the projection to the Board. The funds were received from the Board to the Division Office on 17.04.2006 for payment to the Contractor. But the payments were not made to the Contractor, since the works have not been completed by the Contractor as per the conditions of the Agreements. The said amount was kept idle and the petitioner should have put up the office note to the Executive Engineer pointing out the amount kept idle, requesting the Executive Engineer to remit the amount to the Board. But the petitioner failed to take any action to remit fund to the Board. Therefore, the petitioner is responsible for the said irregularities.

8. Hence, the authorities concerned, including the Appellate Authority, had rightly imposed the punishment on the petitioner and this Court finds no infirmity or illegality in the orders passed by the respondents and this writ petition is devoid of merits and is liable to be dismissed.



W.P.No.9364 of 2022

WEB COPY

9. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

02.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
mn

To

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.
2. The Chairman,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk,
Chennai-600 005.



WEB COPY



W.P.No.9364 of 2022

G.K.ILANTHIRAIYAN. J,

mn

W.P.No.9364 of 2022

02.01.2024