



WEB COPY

W.P.No.9181 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.9181 of 2013
and
M.P.Nos.1 and 2 of 2012

A.Azhagesan

... Petitioner

Vs.

The Managing Director,
Tamil Nadu Warehousing Corporation,
Chennai – 600032.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the respondent in his Proceedings No.Rc.7057/2012/E1 dated 27.7.2012 and quash the same so far as the petitioner is concerned.

For Petitioner : Mr.S.Selvathirumurugan

For Respondent : Ms.M.Ramya & Mr.R.D.Ashok Kumar

ORDER

This writ petition has been filed challenging the proceedings bearing Rc.7057/2012/E1, dated 27.07.2012, whereby the petitioner was reverted



from the post of 'Regional Manager/ Manager' to the post of 'Warehouse Manager/ Deputy Manager' on the ground that the cases of his seniors were considered subsequently on dropping of the charges framed against them and consequently, it was for want of vacancy, the petitioner was reverted through the impugned proceedings dated 27.07.2012. In the said impugned proceedings dated 27.07.2012, the challenge is mainly on the ground that the same was issued in violation of the principles of natural justice.

2. In this connection, it is necessary to notice that the petitioner was promoted to the post of 'Regional Manager/ Manager' through the proceedings, dated 11.01.2012 and was reverted through the impugned proceedings, dated 27.07.2012 i.e., after a lapse of about seven months.

3. This court, while entertaining the writ petition, stayed the operation of the impugned order by passing an order dated 10.04.2013 on the ground of violation of the principles of natural justice. The said interim order is still operating. As a consequence, the petitioner continued in the promotional post of 'Regional Manager/ Manager' and then retired from service on 30.04.2019 on attaining the age of superannuation.



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4. When the matter is taken up for consideration, the learned counsel on either side advanced elaborate arguments.

5. The learned counsel for the respondents mainly contended on the ground that reversion is not punitive and it is only for want of availability of vacancy, hence the question of putting the petitioner on notice does not arise and also placed reliance on the decision of the Hon'ble Apex Court in the case of ***"K.H.Phadnis -vs- State of Maharashtra"*** reported in (1971) 1 SCC 790. He also further contended that, even if an opportunity is afforded to the petitioner, the same would not serve any useful purpose, as the cases of his seniors were considered on exoneration from the charges. He also placed reliance on the decision of the Hon'ble Apex Court in the case of ***"Dharampal Satyapal Limited -vs- Deputy Commissioner of Central Excise, Gauhati and others"*** reported in 2015 (8) SCC 519.

6. On the other hand, Mr.S.Selvathirumurugan, learned counsel appearing for the petitioner placed reliance on various decisions of the Hon'ble Apex Court as well as the decision of this court in the cases of ***"Aurangabad***



Municipal Corporation -vs- Jayant” reported in (2021) 14 SCC 725,

“Union of India and another -vs- Narendra Singh” reported in (2008) 2

SCC 750 and “Divisional Superintendent, Eastern Railway, Dinapur and

others -vs- Shri L.N.Keshri and others” reported in (1975) 3 SCC 1.

7. This court has carefully considered the submissions made on either side and also perused the entire material on record.

8. As already noted above, the operation of the impugned order was stayed by this court by an order dated 10.04.2013. Ultimately, the petitioner continued in the promotional post and retired from service on 13.04.2019. Even if the impugned order is upheld by this court also, the respondents will have to consider the status of the petitioner with reference to his eligibility for promotion in his own turn. In case, if the impugned order is set aside by this court on the ground of violation of the principles of natural justice, then also the respondents may have to put the petitioner on notice and then re-work the eligibility or otherwise of the petitioner for promotion to the post of 'Regional Manager/ Manager'. In the circumstances, this court is not inclined to go deep into the matter to verify as to whether, any prejudice is



caused to the petitioner for want of following principles of natural justice before issuing the impugned order dated 27.07.2012.

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9. As this court has already stayed the operation of the impugned order vide order dated, 10.04.2013 and the said order is in operation and the petitioner has also retired from service, this court is not inclined to go deep into the matter and is of the considered view, that it would be in the interest of both the parties to set aside the impugned order on the ground of violation of the principles of natural justice, leaving it open to the respondents to take appropriate action strictly following the principles of natural justice. Accordingly, the impugned order bearing Rc.7057/2012/E1, dated 27.07.2012 is hereby set aside on the ground of violation of the principles of natural justice.

10. Accordingly, the writ petition is allowed, leaving it open to the respondents to take appropriate action strictly in accordance with law. No costs. Connected miscellaneous petitions, if any, shall stand closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

MUMMINENI SUDHEER KUMAR, J.

skr

To

The Managing Director,
Tamil Nadu Warehousing Corporation,
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