



WEB COPY



W.A. No.1238 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

and

THE HONOURABLE MR.JUSTICE **C.KUMARAPPAN**

W.A.No.1238 of 2021

S.Rajamanickam

... Appellant

-VS-

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road,
Kilpauk, Chennai – 10.

2.The General Manager (Administration),
Tamil Nadu Civil Supplies Corporation,
12, Thambusamy Road,
Kilpauk, Chennai – 10.

3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Regional Office,
Co-operative Spinning Mill Compound,
Ammappettai, Salem – 14.

.... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 16.12.2020 made in W.P.No.19646 of 2013.

For Appellant : Mr.S.Vijayakumar,
Sr. Counsel
for Mr.R.Bharadwaj

For Respondents : Mr.C.Selvaraj



WEB COPY



W.A. No.1238 of 2021

JUDGMENT

[Judgment of the Court was delivered by
S.M.SUBRAMANIAM,J.]

The punishment of stoppage of increment for three years without cumulative effect imposed by the authority is under challenge in the writ proceedings. Since the writ petition was dismissed, the present writ appeal is filed.

2. The petitioner joined as Packer in Tamil Nadu Civil Supplies Corporation and promoted to the post of Bill Clerk in the year 1987 and further promoted to the post of Junior Assistant. A charge memo has been issued on 22.07.2010 framing two charges under the Tamil Nadu Civil Supplies Corporation Employees Service Regulations. The allegations against the writ appellant were that in the presence of other officials in the office, he has abused the Regional Manager with filthy language. The Regional Manager instituted the disciplinary proceedings and placed the file before the head office for further action. The head office in order to ascertain the facts summoned the writ appellant and conducted preliminary enquiry. The preliminary enquiry was conducted in the office of the General Manager (Administration) on 28.06.2011. The



W.A. No.1238 of 2021

appellant participated in the enquiry and after reading the recorded enquiry proceedings, he refused to sign the enquiry proceedings and went out of the office of the General Manager (Administration).

3. The enquiry officer was appointed and he conducted the enquiry. Though opportunity was provided to the appellant, he refused to participate in the enquiry proceedings. Thus the enquiry officer submitted an exparte enquiry report. Based on the said enquiry report, the disciplinary authority imposed the punishment of stoppage of increment for three years with cumulative effect. The appellant preferred an appeal and the appellate authority reduced the punishment to one that of stoppage of increment for three years without cumulative effect. The said penalty came to be challenged in the writ petition.

4. Mr.S.Vijayakumar, learned senior counsel for the appellant would submit that the charges framed against the appellant are vague and based on the vague charges, departmental proceedings cannot be conducted. The officer against whom the allegation has been raised himself framed the charges and further no adequate opportunity was provided to the appellant for defending his case.



W.A. No.1238 of 2021

The documents sought for by the appellant had not been furnished.

Therefore the appellant was not in a position to defend his case in the enquiry proceedings. For all these reasons, the writ order is to be set aside.

5. Mr.C.Selvaraj, learned counsel appearing on behalf of the Tamil Nadu Civil Supplies Corporation would oppose by saying that opportunities as contemplated under the Tamil Nadu Civil Supplies Corporation Employees Service Regulations, 1989 were provided to the appellant. The writ Court considered all these aspects and dismissed the writ petition. The appellant refused to co-operate with the enquiry officer and therefore now he cannot turn around and say that no sufficient opportunities were given to him. Charge memo has been issued and even during the enquiry before the General Manager (Administration), the appellant has not co-operated. Thus, the enquiry officer submitted enquiry report. Considering the findings made by the enquiry officer in his report, the punishment was imposed and the said punishment was subsequently modified by the appellate authority to that of stoppage of increment for three years without cumulative effect. Thus the writ appeal has to be rejected.



W.A. No.1238 of 2021

WEB COPY

6. The writ Court has elaborately considered the grounds raised by the writ appellant. No doubt, the immediate superior of an employee is empowered to initiate departmental disciplinary proceedings. On such initiation, the file was placed before the competent authority for taking decision and passing final orders. Based on the said report and the findings made therein, the disciplinary authority imposed the punishment of stoppage of increment for three years with cumulative effect, which was modified as stoppage of increment for three years without cumulative effect.

7. We are of the considered opinion that principles of natural justice have been complied with. Though opportunity has been provided to the appellant, he has not utilised the same. He refused to co-operate even during the preliminary enquiry conducted before the General Manager (Administration) and even before the enquiry officer he has not participated. Therefore, now he cannot turn around and claim that the enquiry has not been conducted properly. We do not find any disproportionality in the quantum of punishment. Further, all these aspects are elaborately considered by the writ Court and therefore we are not inclined to interfere



W.A. No.1238 of 2021

with the order passed in the writ petition. Accordingly, the order impugned stands confirmed and the writ appeal is dismissed.

There shall be no order as to costs.

(S.M.S.J.) (C.K.J.)
07.06.2024

Index: Yes/No
Neutral Citation: Yes/No
mmi

To

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WEB COPY



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**S.M.SUBRAMANIAM, J.
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