



W.P. Nos.27301, 27305 and 27334 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. Nos.15103 & 15044 of 2021
and
W.M.P.Nos.15995 & 15939 of 2021

M.Karunanidhi

... Petitioner in both W.Ps.

Vs.

1 The Tamil Nadu Civil Supplies Corporation,
Rep. by its Managing Director,
10, Thambuswamy Road,
Chennai 10.

2 Tamil Nadu Civil Supplies Corporation,
Rep. by its Regional Manager,
Krishnagiri Region,
Krishnagiri 635 001.

... Respondents in all W.Ps.

3 The Tamil Nadu Civil Supplies Corporation,
Rep. by its Senior Regional Manager,
Nagai Region, Nagapattinam 611001. ...

3rd Respondent in
W.P.No.15044 of 2021

Prayer in W.P.No.15103 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the memo in Na.Ka.No.S2/1519/2019, dated 09.10.2020 of the 2nd respondent, quash the same along with all the recovery orders.



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Prayer in W.P.No.15044 of 2021: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the memo in Na.Ka.No.E.10/001603/2018, dated 15.05.2018 of the 3rd respondent, quash the same.

In all W.Ps.

For Petitioner : Mr.S.Venkataraman

For Respondents : Mr.C.Selvaraj

COMMON ORDER

The petitioner who was allowed to retire from service on 31.05.2018, has given with the proceedings for recovery on the allegations that the amounts stated in the impugned proceedings dated 15.05.2018 and 09.10.2020 is the loss caused by him during his tenure of employment at Tamil Nadu Civil Supplies Corporation, Nagapattinam Division and Krishnagiri Division. Aggrieved said the proceedings, the petitioner has filed the present Writ Petitions.

2. In the order for retirement dated 30.05.2018, it has been mentioned that the petitioner has admitted to recover a sum of Rs.5,13,017/- along with Rs.905/- towards loss caused to the society from the terminal benefits payable to him. Since the loss caused in the relevant period was not clear at the time when the petitioner was retired from



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service, no recovery was made. The petitioner has been given with a show cause on 09.10.2020 for recovery of a sum of Rs.1,88,551.22/- for certain loss of stock relating to the period between 2015 to 2016. The other impugned proceedings dated 15.05.2018 relates to a sum of Rs.5,13,017.00/-. However, in the said order, dated 15.05.2018, there is no mention about the period during which, the said loss has been caused. However, according to the petitioner, that would relate to the years 1993, 1994, 1995, 1998 and 2002 when the petitioner was originally employed as a seasonal employee in procurement of Paddy. The petitioner has been absorbed as Junior Quality Inspector on 02.01.2009. Even though the alleged loss involved in the impugned proceedings of the 2nd Respondent dated 15.05.2018 relates back to the years 1993, 1994, 1995, 1998 and 2002, no action has been taken. The respondents have been sending frequent reminder Memos with regard to the Civil Proceedings for recovery from the year 2021.

3. When the petitioner has applied through Right to Information Act



for furnishing back records relating to the alleged loss, he has given with the reply stating that no back records are available as they were very old.

In fact in the order dated 09.10.2020, which has been issued for recovery of a sum of Rs.1,88,551.22/-, 26 number of recovery proceedings have been furnished by the Managing Director. Though the shortage of the stocks are ordered to be regularised by initiating recovery proceedings against the petitioner, the petitioner cannot make any representation in view of the lack of relevant back records relating to the above recoveries.

4. It would have been true that the petitioner had accepted recovery for the loss at the time of receiving his order of retirement. It is understandable that the petitioner would be in a compelling situation to give such undertaking to get the orders permitting him to retire from service. That cannot be taken as the document to support the claim of the respondents that the petitioner has caused any quantifiable loss to the society.

5. Heard Mr.S.Venkataraman, learned counsel for the petitioner and Mr.C.Selvaraj, learned counsel appearing for the Respondents.



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6. The learned counsel for the petitioner submitted a circular in CLCI/96958/88, dated 04.04.1989 issued by the Chairman cum Managing Director, Tamil Nadu Civil Supplies Corporation with regard to recovery of value of storage loss cases which show that the show cause notice should be issued duly highlighting the facts of each case individually and the notice should be issued in a routine manner. It is further stipulated that before passing the impugned orders, sufficient opportunity should be given to the employee and recovery orders can be passed only after conducting enquiry by giving opportunity to the employees. For the sake of clarity, the contents of the circular are extracted hereunder:

- a) Show Cause notices should be issued duly highlighting the facts of each case individually the notices should act be issued in a routine manner.*
- b) Before passing final order sufficient opportunities should be given to the employees concerned while passing final orders, the explanation offered by the individual should not be rejected by the Senior Regional Managers/Regional Managers without any valid reasons. In the case of Paddy, the variety and season to which the Paddy found short should be specified in the Show Cause Notices issued to*



the employees concerned wherever shortages over and above the norms have been noticed.

- c) Final orders should be passed for Recovery of the loss from an employee only after conducting due enquiry after giving full opportunity to the employees. In other words, the recovery for the storage losses noticed over and above the norm fixed should be ordered only when the culpability of the employee concerned for the loss is proved.*

7. But in the case on hand, the routine show cause notice is given without highlighting the facts of each lapses which are alleged to have caused to the society. In view of the delayed proceedings initiated by the respondents, the petitioner cannot make any effective representation. In fact the respondents themselves could not call for the relevant records in order to enable the petitioner to make his defence in a full-fledged manner. Without conducting any enquiry and without giving any reasonable opportunity, the impugned proceedings have been issued in an inappropriate manner and that too at the time of retirement of the petitioner, for the lapses said to have been caused before several years and without any material facts. Since the impugned orders have been issued



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completely in contradiction to the conditions of the circular issued in

CLCI/96958/99, dated 04.04.1989, the same is liable to be set aside.

8. In the result, the Writ Petitions are allowed. The impugned proceedings in Na.Ka.No.S2/1519/2019, dated 09.10.2020 and Na.Ka.No.E.10/001603/2018, dated 15.05.2018 issued by the Respondents 2 and 3 respectively, are set aside. No costs. Consequently, connected miscellaneous petitions are closed.

20.02.2024

Index: Yes / No
Speaking order / Non-speaking order
vum

R.N.MANJULA ,J.

vum

To:



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