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W.A. No.3417 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.3417 of 2023 and C.M.P. No.27993 of 2023

- 1 The Chairman & Managing Director
Tamil Nadu Road Infrastructure Development Corporation
IV Floor, LLA Building
735, Anna Salai
Chennai 600 002
- 2 The Executive Director
Tamil Nadu Road Infrastructure Development Corporation
IV Floor, LLA Building
735, Anna Salai
Chennai 600 002

Appellants

v

T. Janarthanan

Respondent

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 14.07.2023 passed in W.P. No.27883 of 2022.

For appellants Mr. D. Ravichander
for Mr. P. Dinesh Kumar

For respondent Mr. Kalyanaraman
for M/s. Aiyar & Dolia



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JUDGMENT

(delivered by R. MAHADEVAN, J.)

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The correctness of the order dated 14.07.2023 passed by a learned Judge in W.P. No.27883 of 2022 is called into question in this writ appeal by the respondents in the said writ petition.

2 A precis of the germane facts giving rise to this writ appeal could be given thus:

2.1 The respondent joined the appellant Corporation as Deputy General Manager (Finance)-cum-Company Secretary on 14.02.2014. Prior to joining the appellant Corporation, the respondent had worked in the Accounts and Finance Departments of two undertakings of the State Government from May 1985 to March 2013, i.e., for nearly 28 years.

2.2 While so, on the ground that he had included one subject in the Agenda for the 63rd Board Meeting held on 28.12.2021 without getting approval from the first appellant, he was issued with a charge memo on 07.01.2022, to which, the respondent submitted his explanation dated 24.01.2022 stating that he had placed the said subject in the Agenda sans



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approval from the first appellant due to inadvertence. Not satisfied with his explanation, the first appellant terminated the respondent from service on 02.05.2022.

2.3 Challenging the order of termination and also seeking reinstatement with continuity of service and all attendant benefits, the respondent filed a writ petition being W.P. No.27883 of 2022, mainly contending that he was terminated from service without even conducting an enquiry, which is against the principles of natural justice.

2.4 A counter affidavit was filed by the appellants, stating, *inter alia*, that as per Clause 48 of the Memorandum and Articles of Association of the Corporation, the Board of Directors has the power to appoint, remove or suspend Managers, Secretaries, Officers, Clerks, Agents and servants from permanent, temporary or special services, as they may think fit and in exercise of the said power, the respondent was terminated from service.

2.5 The main contention put forth by the learned Standing Counsel for the appellants before the learned Judge was that when the respondent himself had admitted his mistake, there is no need to conduct an enquiry.



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2.6 The above stance of the learned Standing Counsel for the appellants did not cut ice with the learned Judge, who was of the view that even if the appellants were not satisfied with the respondent's explanation, they should have initiated enquiry proceedings, in which event, the respondent would have got an opportunity to defend the charges framed against him. The learned Judge went on to hold that the respondent's explanation that he had included the subject in the Agenda inadvertently without the approval of the Board cannot be accepted as admission of his guilt and that termination of the respondent merely on the basis of his explanation, is a clear case of violation of principles of natural justice.

2.7 The aforesaid order of the learned Judge is assailed in the instant writ appeal.

3 The sheet anchor submission of the learned Standing Counsel for the appellants is that when the respondent himself has categorically admitted his guilt, conduct of enquiry proceedings is unwarranted, inasmuch as, admission is the best piece of evidence. He further contended that the power under Clause 48, *ibid.*, was rightly exercised by the appellants while terminating the respondent.



4 *Per contra*, the learned counsel for the respondent submitted that

imposition of capital punishment on the respondent is grossly disproportionate to the charge framed against him and in any case, the appellants ought to have conducted enquiry proceedings in the event of they not being satisfied with the respondent's explanation and without taking recourse to that, terminating the respondent straightaway is nothing short of violation of principles of natural justice.

5 Heard both sides and perused the materials available on record.

6 The short point that emerges for consideration in this writ appeal is whether the termination of the respondent merely on the basis of his explanation that he had inadvertently placed the subject in the Agenda without getting approval from the first appellant, that too, without initiating enquiry proceedings by taking umbrage under Clause 48, *ibid.*, is sustainable.

7 Concededly, even according to the appellants, they have not conducted domestic enquiry before terminating the respondent from service. The justification given by the appellants for not conducting enquiry is two-fold, viz.,



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- (i) Clause 48 of the Memorandum and Articles of Association empowers the Board of Directors to appoint, remove or suspend the office members and staff members as they may think fit; and
- (ii) the respondent himself has admitted his guilt.

8 Coming to the first justification, be it noted, no doubt, by virtue of the said clause, the Board of Directors do derive the power to appoint, remove or suspend the appellant Corporation's staff members and officers. But, the said clause does not give carte blanche to the appellants nor does it state that principles of natural justice can be given a go by, more so, before imposing the capital punishment. As is known, the Memorandum and Articles of Association of a company are documents that regulate the affairs of a company internally and externally, and by no stretch of imagination, can they be taken as a weapon by the mighty Management against its poor employees, especially, in a case involving capital punishment. If it had been a case of minor punishment, the situation would have been different, which is not the case here. Hence, the first justification of the appellants does not have legs to stand.

9 As regards the second justification, it deserves to be stated only to be rejected, for, notwithstanding the admission of the respondent of his guilt, nothing prevented the appellants from conducting an enquiry. Had an enquiry



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been conducted, the respondent might have got a chance of engaging an advocate to defend his case effectively. The enquiry proceedings having been skipped by the appellants merely based on the admission of guilt by the respondent, no doubt, the respondent had been deprived of his right of effective defence. At this juncture, it is worth adverting to the following sapient passage from the judgment of the Constitution Bench of the Supreme Court in **Jagdish Prasad Saxena v State of Madhya Bharat [AIR 1961 SC 1070]**, wherein, emphasis has been laid for conduct of departmental enquiry even in a case involving admission of guilt by the delinquent, as in the case on hand:

“13.The departmental enquiry is not an empty formality; it is a serious proceeding intended to give the officer concerned a chance to meet the charge and to prove his innocence. In the absence of any such enquiry it would not be fair to strain facts against the appellant and to hold that in view of the admissions made by him the enquiry would have served no useful purpose. That is a matter of speculation which is wholly out of place in dealing with cases of orders passed against public servants terminating their services.”
(emphasis supplied)

10 In view of the foregoing discussion, the point for consideration having been answered against the appellants and in favour of the respondent, we find no ground to interfere with the order impugned.



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In the upshot, this writ appeal stands dismissed, however, sans costs.

WEB CONNECTED C.M.P. stands closed.

cad

[R.M.D, J.] [M.S.Q, J.]
23.04.2024



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