



W.P.No.34602 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.08.2024

PRONOUNCED ON : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.34602 of 2022
and
W.M.P.No.34045 of 2022

M.Matheswaran

... Petitioner

Vs.

The Managing Director,
Tamil Nadu Magnesite Limited,
(A Government of TamilNadu Undertaking),
5/53, Omalur Main Road,
Jagir Ammapalayam Post,
Salem, Tamil Nadu.

.....Respondent

Prayer:-Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the respondent Ref.E1/Pers/23-II/1995/1710 dated 17.10.2022, quash the same and to direct the respondent herein to restore the petitioner's original salary without any reduction and to reimburse the reduced and recovered amounts.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.R.Bala Ramesh



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ORDER

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Challenging the proceedings of the respondent in Ref.E1/Pers/23-II/1995/1710 dated 17.10.2022 and further seeking a direction to the respondent herein to restore the petitioner's original salary without any reduction and to reimburse the reduced and recovered amounts, the present Writ Petition has been filed.

2. Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.R.Bala Ramesh, learned counsel appearing on behalf of the respondent.

3. The short facts of the case is as follows:

The petitioner herein has been serving as Commercial Manager in the respondent organisation since 1995. A charge memo dated 02.08.2022 was issued against the petitioner levelling three charges. The respondent has treated the charge memo itself as a preliminary show cause notice and also came to the conclusion that the petitioner was guilty of misconduct set out in Clause c and g of Rule 5.2 of Service Rules of Tamil Nadu Magnesite Rules and also stated that he had committed wilful subordination of disobedience, trust, fraud or



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dishonest, breach of rules in force and negligence of work without affording an opportunity to the petitioner. Even though the petitioner has sought for relevant documents, work order copy, agreement copy and service rules with latest amendments, the same have not been furnished to the petitioner to defend his case. A detailed explanation was given by the petitioner on 10.10.2022 to the charge memo. Without any disciplinary proceedings, the respondent had issued the proceedings dated 17.10.2022 imposing triple penalty along with major penalty of reduction to a lower minimum time scale coupled with imposition of two other penalties viz., recovery of additional expenses and the loss of interest for blockage of fund till the end of financial year from his salary.

4. Aggrieved over the same, the petitioner has come forward with the present Writ Petition.

5. The learned counsel submitted that the respondent without adhering to the procedure i.e., non issuance of show cause notice to the petitioner, issued charge memo arriving at a conclusion that the petitioner had committed the offence and without hearing his reply/explanation to the charges and also neither initiated disciplinary



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proceedings nor recovery for the loss by proving the charges, had directly passed an order of triple penalty including major penalty or reduction to a lower minimum time scale coupled with imposition of two other penalties, which is unsustainable and illegal in the eye of law.

6. He further submitted that the respondent has not issued a proper charge memo as there was no detailed statement of allegations, list of documents and list of witnesses and also that no inquiry was conducted. Moreover, the respondents have placed reliance on the statements of seven employees and imposed triple penalty without furnishing the copies of the said statements to the petitioner and also not examining them in the presence of the petitioner so as to enable him to cross examine them to prove the fact which act is perverse and arrived at the conclusion in the charge memo as the petitioner has committed various acts of misconduct and the proceedings dated 02.08.2022 would by itself vitiate the entire proceedings culminating in the impugned order. It is to be noted that the impugned order has been passed without even considering the explanations of the petitioner and hence the same warrants interference.



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7. At this juncture, the learned counsel contended that the findings of the respondent in regard to commission of six flaws by the petitioner were not based on any document, evidence or statements of any witnesses which is unsustainable.

8. It is contended by the learned counsel that the act of the respondent is in violation to the principle of natural justice and settled principles of service prudence on disciplinary proceedings. In view of the aforesaid facts, the impugned order passed by the respondent is liable to be set aside and the present writ petition has to be allowed.

9. Per contra, learned counsel for the respondent submitted that the petitioner was appointed as Commercial Manager in the respondent company on 07.02.1994 and thereafter he worked in various posts in the company and now working as Factory Manager and Manager Purchase (I/C). On 11.07.2022, the respondent made an inspection and found that 77 MT of Lightly Calcined Magnesite (LCM) powder is stacked, isolated from lumps, crushed to powder, packed at SKD without any record. It came to light on enquiry by the



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Managing Director that the said LCM was not in a saleable condition causing Rs.23.10 lakhs loss to the Company. On various complaint, the respondent came to know that the instruction issued were not complied by the petitioner and detrimental instruction issued by the petitioner to the subordinates thereby causing hardship to the respondent and inspite of the direction issued to the Factory Manager to maintain quality in production of LCM, the petitioner did not act upon to maintain quality as per standard specification and reduce the loss on ignition. He further contended that the petitioner has not taken adequate steps to maintain the quality by reducing the value of loss on ignition during the production for the period from October 2023 to March 2024. Furthermore, the issue of high LOI persist and the petitioner has not taken steps to control the percentage of LOI while stacking the lumps bag which results negative impact on the sales as it minimizes the curing time while using LCM for manufacturing emery stones.

10. While summing up his arguments, the learned counsel submitted that the petitioner has been given adequate opportunity and fair enquiry was conducted as per the service rules but however, the petitioner has neither examined nor produced any document or



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evidence to establish his case other than the explanation to the charge memo. Thereafter, a detailed order dated 17.10.2022 has been passed by the respondent imposing the punishment on the petitioner as stated earlier which warrants no interference. He also submitted that the petitioner without availing the appeal remedy has approached this Court by way of this petition and hence, the same is liable to be dismissed.

11. Considered the rival submissions made by the respective counsels and also perused the materials available on record.

12. It is predominant to note that show cause notice has been issued in the form of charge memo calling upon the petitioner as to why disciplinary proceedings could not be taken against him and without affording opportunity, the triple penalty as stated earlier has been imposed by the respondent on the petitioner without adhering to the Service Rules of Tamil Nadu Magnesite Rules. Though the petitioner has sought for certain documents to prove him against the alleged charges, the respondent had not provided him with the documents namely, service rules with latest amendments, complaint copy of the employees, work order copy and agreement copy in



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respect of LCM production and processing contract. At this juncture, it is pertinent to note that if the respondent was not satisfied with the explanations given by the petitioner for the initial show cause notice dated 02.08.2022, they would have taken disciplinary action against him but however, they had issued proceedings dated 17.10.2022 imposing triple penalty along with major penalty as stated earlier, which is unsustainable and illegal in the eye of law. The impugned order dated 17.10.2022 was passed without application of mind, neither the petitioner has been furnished with the documents sought for by him nor enquiry was conducted and also that none of the seven employees, who is alleged to have given complaints were arrayed as witnesses and he has also not permitted to cross examine them. By taking into consideration of all the aforesaid facts, this Court is of the opinion that the impugned order dated 17.10.2022 passed by the respondent, is liable to be quashed.

13. For the foregoing reasons, the proceedings of the respondent dated 17.10.2022 imposing punishment on the petitioner, is hereby quashed and consequently, the Writ Petition stands allowed. The respondent is directed to restore the petitioner's original salary without any reduction and to reimburse the reduced



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and recovered amounts to him, within a period of six weeks from the date of receipt of a copy of this order. Connected Miscellaneous Petition is closed. There shall be no order as to costs.

22.10.2024

Index: Yes/No
Order: Speaking/Non-Speaking
NCC : Yes/No

DP

To

The Managing Director,
Tamil Nadu Magnesite Limited,
(A Government of TamilNadu Undertaking),
5/53, Omalur Main Road,
Jagir Ammapalayam Post,
Salem, Tamil Nadu.



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VIVEK KUMAR SINGH, J.

DP

ORDER MADE IN
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