



WP(MD)No.26166 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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V.Jeganathan

... Petitioner

Vs

**1.The Tamil Nadu Civil Supplies Corporation Limited
Represented by the Chairman – cum – Managing Director,
No.42, Kambusamy Road, Chennai -10.**

**2.The Tamil Nadu Civil Supplies Corporation Limited,
Represented by Regional Manager, Court Complex,
Trichy -1.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records of the 1st respondent in Se.Mu.Aa.No.AD2/14711/2014 dated 12.11.2015 and quash the same as illegal and arbitrary and in consequently direct the respondents to permit the petitioner to retire from service and grant retirement benefit to the petitioner including the pension.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.G.Mohan Kumar



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ORDER

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The petitioner is a retired employee of the respondent Civil Supplies Corporation Limited. While he was serving as a Watchman in a Modern Rice Mill (MRM) at Athavathur he was placed under suspension on 25.04.1989 on the allegation of making false entry in the registers, as if the paddy despatched from CAP storage Trichy reached the MRM godown. Simultaneously a criminal prosecution was launched as against the petitioner and four others. The petitioner was convicted in the criminal case in CC.No.255 of 1989 by the learned Judicial Magistrate No.3. However, on appeal, it was set aside by Principal Sessions Court in Cr.A.No.125 of 2003. Departmental proceedings was initiated and in conclusion of the departmental proceedings, he was dismissed from service. It was challenged by the petitioner before the District Munsif Court in OS.No.818 of 1992 and the same was allowed. However, it was reversed by the Principal District Court, Trichy on appeal filed by the respondents in AS.No.30 of 1997. The petitioner filed a second appeal in SA.No.1347 of 1998 before this Court and this Court by order dated 30.11.2009 directed the respondents to reinstate this petitioner with



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liberty to the respondents to conduct the departmental inquiry in accordance with law. Therefore, the petitioner was reinstated into service and they conducted the enquiry afresh in the year 2010. Thereafter, this petitioner was imposed with a punishment of treating the suspension period 25.04.1989 to 16.03.1992 as a substantive punishment period and treating the period 17.03.1992 to 10.01.2010 as no work – no pay. This order of punishment dated 20.01.2014 passed by the disciplinary authority / 2nd respondent was challenged before the appellate authority / General Manager and the order of the disciplinary authority was confirmed in the appeal, which is challenged in this writ petition.

2.The main contention of the petitioner in the above civil suits is that the registers based on which the charge memo was issued against him, were not furnished. The case of the respondents is that the registers have been seized by the police and marked before the learned Judicial Magistrate No.3 in CC. No.255 of 1989. Since it is part of the criminal investigation, they were not in a position to serve it to the petitioner and the petitioner was permitted to peruse the documents.



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3.The learned Counsel for the petitioner submits that the petitioner was not at all furnished the documents relied on by the respondents for initiating departmental proceedings and imposing punishment. Further co-delinquents have been imposed with lesser punishment. Therefore, the order of dismissal passed by the respondents is liable to be set aside.

4.The learned Counsel for the respondents raised preliminary objections that the petitioner has not challenged the order of the original authority / 2nd respondent. However he has challenged the order of the appellate authority, viz., General Manager (Administration), TNCSC, Chennai, who is not arrayed as a respondent in this writ petition. Therefore this writ petition is not maintainable. Further this writ petition has been filed after a period of four years and on the ground of laches also this writ petition is not maintainable.

5.He further submits that insofar as the ground of non-furnishing of the documents, he submits that since criminal prosecution was launched, the documents were marked as exhibits in CC.No.255 of 1989 before the Court by the police concerned. However the



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2nd respondent obtained permission from the Court for perusal of the records by the petitioner. Accordingly he was informed to peruse the documents. Despite sufficient opportunities provided, he was not prepared to peruse the documents and informed by his letter dated 26.01.1991 that there would be no meaning in perusing the records after the enquiry is over. Knowing well that the documents are filed before the Court and having failed to make use of the opportunity provided to him to peruse the documents, he cannot take such a stand before this Court. The petitioner has to make out a case that how he is prejudiced by non furnishing of those documents. Further this petitioner has projected the impugned order as an order of dismissal from service. Initially he was dismissed from service, which was challenged and based on the orders of this Court in SA.No.1347 of 1998, dated 13.11.2009, he was reinstated into service with effect from 10.01.2010 and enquiry was conducted afresh. Pending enquiry he was allowed to retire on attaining the age of superannuation on 31.03.2013 without prejudice to the pending disciplinary proceedings. Subsequently, enquiry officer submitted his report on 09.01.2014 and based on which explanation was called for from the petitioner and he offered his explanation on 17.01.2014.



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Considering all the materials, the 2nd respondent by order dated 20.01.2014 regularised the suspension period as substantive punishment period and non-working period (the period between the dismissal and the reinstatement) as no work- no pay. This was the punishment imposed on the petitioner and it was challenged before the appellate authority and the order of the 2nd respondent was confirmed by the appellate authority. Therefore, the contention of the petitioner that he was dismissed from service by order dated 20.01.2014 is not correct, since it is a punishment order regularising the suspension period and non-working period and he was already allowed to retire on attaining the age of superannuation on 31.03.2013 itself subject to the outcome of the disciplinary proceeding.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.As pointed out by the learned Counsel for the respondents the petitioner has filed this writ petition under misconception that by the order impugned this writ petition, he was dismissed from service. But by the order dated 20.01.2014, this petitioner was imposed with a



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punishment for the proven charges, by treating the suspension period as a substantive punishment and the non working period as no work – no pay and by the impugned order it was confirmed by the appellate authority. The petitioner was also allowed to retire on attaining the age of superannuation on 31.03.2013 subject to condition. Further it is relevant to refer to the grounds raised by the petitioner in this writ petition, which reads as follows:

“c.The 1st respondent failed to appreciate the fact that when the criminal court acquitted the petitioner, ought not to have passed the order of dismissal.

d.The 1st respondent failed to appreciate the fact that when the co-delinquent was reinstated in service, the same yardstick ought to have been applied for the petitioner also.”

8.Moreover the petitioner has filed this writ petition after a period of four years. The order of the original authority is not challenged. What is challenged herein is an order of the appellate authority. The authority who passed impugned order is not arrayed as respondent. The fact



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remains that he was allowed to retire attaining the age of superannuation on 31.03.2023 subject to outcome of the disciplinary proceedings.

In conclusion of the disciplinary proceedings he was imposed with the punishment by treating the suspension period as substantive punishment.

Therefore, this writ petition lacks merit. Accordingly this writ petition is dismissed. No costs.

25.11.2024

Internet : Yes / No

DSK

To

1.The Chairman – cum – Managing Director,
The Tamil Nadu Civil Supplies Corporation Limited
No.42, Kambusamy Road, Chennai -10.

2.The Regional Manager, Court Complex,
The Tamil Nadu Civil Supplies Corporation Limited,
Trichy -1.
Usilampatti, Madurai District – 625 532.



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B.PUGALENDHI.J.,

DSK

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