IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.2386 & 2387 of 2019 and
W.P.No.17365 of 2018
W.M.P.Nos.2630 & 2632 of 2019 and
W.M.P.No.20625 of 2018

S.Pandiyan ... Petitioner in all W.Ps

Vs.

1.The Tamil Nadu Civil Supplies
Corporation Limited,
Rep by its Managing Director,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010.

2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Kanchipuram.

3.The Manager (Pension),
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road, Kilpauk,
Chennai - 600 010. ... Respondents in all W.Ps

Prayer in W.P.No.2386 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent relating to the impugned order of the 2nd respondent dated 06.12.2018 bearing Ref.No.Na.Ka.No.E2/2055/2016 and quash the same and consequently, direct the respondents to disburse the retiral benefits including Surrender of Earned Leave and Unearned Leave on Private Affairs due to the petitioner to the tune of a sum of Rs.4,15,000/- along with interest at the rate of 12% per annum with effect from 01.05.2016 till date of disbursement.

Prayer in W.P.No.2387 of 2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent relating to the order of the 2nd respondent dated 07.12.2018 bearing Ref.No.Se.Mu.No.A5/2615/2018 and quash the same and consequently, direct the respondents to disburse the retiral benefits including surrender of Earned Leave and Unearned Leave on private affairs due to the petitioner to the tune of a sum of Rs.4,15,000/- along with interest at the rate of 12% per annum with effect from 01.05.2016 till date of disbursement.

Prayer in W.P.No.17365 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent relating to the impugned order dated 06.06.2018 bearing Ref.No.E1/901/2016 and on the file of the third respondent relating to the impugned order of the respondent dated 23.05.2018 bearing Ref.No.Na.Ka.No.AGR1/5395/17 and quash the same and consequently, direct the respondent to disburse the retiral benefits including Gratuity, Special Provident Fund, Earned Leave surrender and Unearned Leave on Private Affairs due to the petitioner to the tune of a sum of Rs.12,35,000/- along with interest at the rate of 12% per annum with effect from 01.05.2015 till date of disbursement.

In all W.P.s

For Petitioner : Mr.T.Sai Krishnan

For Respondents : Mr.C.Selvaraj

COMMON ORDER

These Writ Petitions have been filed challenging the orders passed by the second respondent and also seeking direction to the respondents to disburse the retiral benefits of the petitioners along with interest.

2. Heard Mr.T.Sai Krishnan, learned counsel for the petitioner, Mr.C.Selvaraj, learned Standing Counsel for the respondents in all the

Writ Petitions and perused the materials available on record.

3. The petitioner was working as a Purchase Officer in the respondent Corporation and has retired from service on 30.04.2016. On the allegation that he did not produce the necessary vouchers for settling the purchase amount to the local farmer who sold their paddy produced to the Corporation and choosing to purchase poor quality of paddy and thereby causing loss to the Corporation and there was a transit loss of goods despatched, the petitioner has been given with the show cause notice as to why the total amount of Rs.15,93,710/- is quantified towards loss caused on account of the above said facts should not be deducted from his terminal benefits.

3.1. After receiving the show cause notice, the petitioner has submitted his explanation on 31.05.2016. His explanation has not been accepted and an order has been passed on 06.06.2018 by stating that a sum of Rs.15,93,710/- which has been already quantified towards loss caused by the petitioner has been appropriated against the pending terminal benefits of Rs.12,35,000/-. Now, the petitioner has filed these

Writ Petitions challenging the show cause notice issued on account of the above mentioned three aspects and the order of recovery made against the pending terminal benefits.

4. The learned counsel for the petitioner submitted that despite the petitioner has been given with charge memo subsequent to his retirement on 02.05.2016, no further action has been taken and he was not subjected to disciplinary proceedings and the petitioner has not been given with necessary documents in order to show how the loss was quantified. According to the petitioner, he cannot be held liable for the loss caused through direct purchase, but only those persons who are in-charge of direct purchase are alone can be held liable. His further contention is that without any detailed enquiry, a recovery order has been passed which is illegal.

5. The learned Standing Counsel for the respondents submitted that it is the duty of the petitioner who was working as a Purchase Officer to get the relevant voucher for having settled the purchase amount to the farmer from whom the paddy was purchased. The persons who were in charge of the direct purchase are seasonal employees and they cannot be held liable for holding voucher or submitting voucher to the Corporation. During the inspection, the records available would show that there was difference between the purchase advance utilised towards purchase and the voucher produced on this account by the petitioner. As the petitioner neither submitted the relevant documents nor given any acceptable explanation for the loss and hence, the recovery has been ordered.

6. It appears that the petitioner has been working for 37 years in the Corporation and he has been holding the charge of Purchase Officer atleast for 10 years. Unless the copy of the inspection report is furnished to the petitioner, it may not be possible for him to give explanation for the difference in the amount in the purchase voucher. Without any detailed enquiry on this aspect, if the recovery order is issued all of a sudden just by giving him show cause, that would only send shock waves.

7. It would have been fair on the part of the respondents to conduct an oral enquiry after giving fair opportunity to the petitioner to peruse all the documents relating to the alleged loss and then, pass an order by quantifying the loss. The petitioner is also equally liable to furnish all the documents in order to show that he has been keeping the account properly and there was no mismatch between the purchase advance given by the Corporation and the purchase amount tallied in the accounts. No doubt, it is the duty of the Purchase Officer to maintain voucher evidencing purchases written by him. Had the petitioner given those vouchers by tallying the accounts, it would not have necessitated the respondents to initiate any recovery proceedings.

8. The petitioner was allowed to retire on attaining the age of superannuation only on his undertaking that he would make good the loss, in case it is found later that the loss has been caused due to his negligence or inaction. Any difference between the purchase advance and the purchase amount shown in the accounts without the support of the purchase voucher would even put the petitioner under the risk of facing the allegations of misappropriation. For the reasons best known to the respondents, they did not choose to pursue the disciplinary action against the petitioner.

9. In case, the petitioner's explanation was not accepted by the respondents and the respondents would have a thought of continuing the disciplinary action, in that case the petitioner could have got an opportunity to understand what were the documents and the report based on which, the liability has been fixed for having caused the loss. Without following the above procedure, the respondents have issued the recovery order to the petitioner. Hence, I feel the recovery order alone is liable to be set aside. So far as the show cause notice is concerned, I do not find any reasons to set aside the same, because it is always open to the petitioner to submit relevant documents or give proper explanation as to why the recovery should not be made against him.

10. In the result, the Writ Petitions filed in W.P.Nos.2386 and 2387 of 2019 are dismissed. The Writ Petition filed in W.P.No.17365 of 2018 is partly allowed, so far as it relates to the order of recovery alone. The respondent Corporation is directed to hold a full-fledged enquiry after giving sufficient opportunity to the petitioner to furnish any other additional details and also give him the copies of the documents relied on for causing recovery and then pass a detailed order afresh on merits within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition in W.P.No.17365 of 2018 is partly dismissed so far it relates to the issuance of show cause notice. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No **20.02.2025**
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

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R.N.MANJULA, J.

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