IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23616 of 2011
and
M.P.No.1 of 2011

S.Paramasivam ... Petitioner

Vs.

1.The Managing Director,
Tami Nadu Civil Supplies Corporation,
No.12, Thambusami Road,
Kilpauk,
Chennai – 600 010.

2.The General Manager,
(Administration),
Tamil Nadu Civil Supplies Corporation (Head Office),
No.12, Thambusami Road,
Kilapuk,
Chennai – 600 010.

3.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Villupuram Region,
Villupuram.

4.The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Cuddalore Region,
Cuddalore. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent relating to the order passed in செ.மு.ஆணை எண். எடி3/26474/2008 dated 28.01.2011 confirming the order of the 2nd respondent passed in his proceedings செ.மு.ஆணை எண். எடி5/86792/2006 dated 11.01.2008, quash the same.

For Petitioner : M/s.K.Muthukumarasamy

For Respondents : Mr.S.Senthil Kumar

ORDER

The petitioner herein while working as Quality Inspector at Sankarapuram Taluk Operational Godown, Villupuram Region, he was subjected to disciplinary proceedings by issuing a charge memo, dated 01.07.2006, and after conducting an enquiry into the matter, the petitioner was imposed with a punishment of stoppage of next annual increment for a period of one year without cumulative effect through proceedings No.AT5/86792/2006 dated 11.01.2008. While imposing the said punishment on the petitioner, the 2nd respondent disciplinary authority requested the 3rd respondent herein to recover the loss incurred to the Corporation from the concerned persons including the petitioner herein. Aggrieved by the said order, the petitioner filed an appeal before the 1st respondent. However, the said appeal was rejected by the 1st respondent through proceedings No.AT3/26474/2008 dated 28.01.2011. It was aggrieved by the said order dated 11.01.2008 as confirmed by the appellate authority, by an order dated 28.01.2011, the petitioner approached this Court by filing the present writ petition.

2. The learned counsel for the petitioner, though argued strenuously, contesting against the punishment of stoppage of annual increment for a period of one year without cumulative effect, this Court, taking into consideration the trivial nature of the punishment imposed on the petitioner, and also taking into consideration the charges that are levelled against the petitioner, does not see any reason to interfere with the impugned punishment. However, insofar as the contention of the learned counsel for the petitioner as against the recovery of an amount of Rs.1,31,322.18/- from the petitioner is concerned, this Court finds substance in the submissions made by learned counsel for the petitioner, which are considered hereunder:

2.1. By virtue of the order dated 11.01.2008 passed by the 2nd respondent imposing the punishment, the 2nd respondent only requested the 3rd respondent to recover the loss incurred to the Corporation from the concerned persons including the petitioner herein. The amount of loss that was alleged to have been suffered by the Corporation is not quantified in the impugned orders. Admittedly, no further enquiry was conducted to ascertain the quantum of loss suffered by the Corporation. Further, no liability is also fixed against the petitioner herein making him liable for an amount of Rs.1,31,322.18/-.

3. In the absence of any enquiry being conducted by the respondents in order to arrive at the conclusion about the quantum of loss caused by the petitioner to the respondent Corporation, straight away recovering an amount of Rs.1,31,322.18/- from the petitioner alone is totally arbitrary, illegal and in violation of principles of natural justice. On this ground alone, the entire recovery made against the petitioner purportedly basing upon the impugned order cannot be sustained as no recovery is contemplated under the impugned orders. But the respondents have resorted to recover an amount of Rs.1,31,322.18/- from the petitioner under the guise of the impugned order.

4. In the light of the above, the recovery of an amount of Rs.1,31,322.18/- is bound to be declared as illegal and arbitrary. Accordingly, the action of the respondents in recovering an amount of Rs.1,31,322.18/- from the petitioner is declared as illegal and arbitrary. Having arrived at the above conclusion what would follow is the next question that has to be considered.

5. The petitioner has already retired from service as early as on 30.09.2012. While the petitioner was in service, no liability is fixed against the petitioner. Added to that, the learned counsel for the petitioner has also brought to the notice of this Court about the contents of the office note dated 18.06.2007, initialed by the 1st respondent herein, which reads as under:

> *"This file deals with the inspection of CAP, Sankarapuram by Vigilance Cell. During inspection, the team have noticed, non-adoption of weighbridge weighment for the movement of paddy loads from DPC's. During the inspection on 16.05.2006 and 18.05.2006, the Vigilance Cell have noticed that a quantity of 10.692.500 Tonnes of paddy valuing Rs.90,244.70 have been omitted by way of under recording of weighment by the Quality Inspector. As per the orders of the Chairman and Managing Director, the Godown was again inspected and an additional quantity of 4.867 tonnes of paddy was also found to be omitted by the Quality Inspector Thiru S. Paramasivam. The total quantity omitted by the Quality Inspector was 15.545.000 tonnes.*

In the instant cases, the Bill Clerks have made weighment of paddy loads at the places nearest to their Direct Purchase Centres in the absence of the Godown staff, thereby suspecting the correctness of the weighment. If the Bill Clerks would have made weighment in the presence of Bill Clerk, the Quality Inspector is fully responsible for the under recording of weight. After the inspection by the Vigilance Cell, the Quality Inspector and the Regional Manager, TNCSC Ltd., Villupuram have submitted a report to Head Office requesting permission to account for the omitted quantity into Corporation Account and relieve the Quality Inspector from recovery.

The request of the individual cannot be taken into consideration, since the Quality Inspector have admitted under recording only because of the Vigilance Cell inspection.

But as per the report of the Regional Manager, the storage loss are very minimum due to non-accounting of excess quantity at the time of receipt and all the 20 CAPs have been closed with minimum percentage of loss, where there is no chance under normal circumstances. The details of loss sustained in the above CAP storage point is enclosed. The percentage of loss for a period of storage upto 5 months ranges from 0.12% to 1.97% clearly indicates that there is no malafide intension on the part of the Quality Inspector. If the omitted quantity of 15.545 tonnes is taken into account, the percentage of storage loss ranges from 0.23 to 2.66, which seems to be nominal.

In the above circumstances, a decision may be taken to leave the quality inspector from recovery without prejudice to the disciplinary action for not having adopted weighbridge weighment while accepting paddy loads from Direct Purchase Centres, as there is no loss to the Corporation."

6. From the above, it is evident that no loss is caused to the Corporation. In the light of the above and also taking into consideration the fact that the petitioner was already retired from service on 30.09.2012, this Court is not inclined to permit the respondents to reopen the issue at this length of time, ie., after a period of 14 years since the date of superannuation of the petitioner from service.

7. Accordingly, this writ petition is disposed of directing the respondents to refund an amount of Rs.1,31,322.18/- being an amount illegally recovered from the petitioner, as expeditiously as possible, at any rate, within a period of two (2) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions, if any, shall stand closed. No costs.

10.07.2025

dpa

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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