IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26680 of 2011

P.Kannan ... Petitioner

Vs.

1. The Chief Executive Officer,
   Tamil Nadu Khadi and Village,
   Industries Board, Kuralagam,
   Chennai – 600 108.

2. The Assistant Director,
   Khadi Village Industries,
   Tamil Nadu Khadi Village,
   Industries Board, Annappattu Maligai,
   Near Thiruvalluvar Statue,
   Salem – 636 001. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 30.03.2011 passed in Rc.No.6850/Pen(1)/2010 on the file of the first respondent herein as followed consequentially by the order dated 20.10.2011 passed in Rc.No.81/E.1/1998 on the file of the second respondent herein and to quash the same and direct the respondents to pay the petitioner the sum of Rs.10,61,200.00 together with interest at the rate of 12% per annum or such other rate with effect from 01.08.2003 being the date of retirement of the petitioner within a time frame.

For Petitioner : M/s.D.Prabavathi
For Respondents : No appearance

ORDER

When this matter came up for consideration before this court on 04.07.2025, there was no representation for the respondents. Hence, this court, after having heard the learned counsel for the petitioner, adjourned the matter to today.

2. Today, inspite of the matter being listed under the caption "For Orders", there is no representation for the respondents.

3. Though the petitioner sought for a consequential direction for payment of Rs.10,61,200/- together with interest at the rate of 12%, during the pendancy of the present writ petition, the respondents have released the major portion of the amount and hence, the dispute that will remain for consideration is only in respect of Rs.2,91,797/-.

4. There is chequered litigation between the parties. However, there is no necessity to refer all those facts, as the dispute between the parties has

been put at rest by a learned Division Bench of this Court in W.A.No.1152 of 2010 by an order dated 21.06.2010.

5. The operative portion of the said order reads as under:-

> *"4. Admittedly, the departmental proceeding was initiated in 1998 on the same set of charges for which a criminal case was also instituted. The appellant was acquitted in the criminal case in the year 2005. Despite the acquittal, the respondents proceeded with the departmental proceeding and passed an order of dismissal from the service, which was ultimately set aside by the Tribunal and confirmed by the learned Single Judge. That being the position, in our considered opinion, the learned Single Judge has committed an error of law in again allowing the heading 'for being mentioned'. Apart from that, we are also of the view that the intiation of proceeding in 1998 and its continuation even after the judgment of acquittal passed in 2005, cannot be allowed to continue over a period of more than 12 years. As against the judgment of acquittal, no further appeal was filed by the respondents and it has become final. Hence the order passed by the learned Single Judge giving liberty to the respondents to continue the departmental proceeding cannot be sustained in law. For the reasons aforesaid, this appeal is allowed and it is held that the respondents cannot continue the departmental proceeding which came ot an end after the dismissal of the writ petition.*
>
> *5. The learned counsel for the appellant submitted that although the appellant was put under suspension from*

1998 and the departmental proceeding was initiated, even the subsistence allowance was not paid. In the light of the supreme court judgment, the continuance of departmental proceeding without payment of subsistence allowance is wholly illegal and without jurisdiction. A reference may be made to the judgement of the Supreme Court in Jagdamba Prasad Shukla v. State of U.P and others (2000) 7 SCC 90. In the aforesaid facts and circumstances, the appellant is entitled to all the monetary benefits payable to him in accordance with law. No costs."

6. It was pursuant to the above order, the first respondent passed an order dated 30.03.2011 in Rc.No.6850/Pen(1)/2010, and consequently, another order was passed by the second respondent through proceedings bearing Rc.No.81/E.1/1998 dated 20.10.2011, withholding an amount of Rs.2,91,797/- from out of the amounts payable to the petitioner, on the ground that there are certain audit objections, and unless and until the said audit objections are settled, the said amount cannot be paid to the petitioner. The stand of the respondents in their counter-affidavit is also the same, namely, on the ground that there are certain shortages while the petitioner was in service and they are to be settled by the petitioner.

7. However, there is nothing on record to show that any liability is fixed

against the petitioner for the alleged shortages or on the ground of audit objections for withholding an amount of Rs.2,91,797/-, or for recovery of the said amount from the petitioner. At no point of time, the petitioner was put on notice about such liability for the said sum of Rs.2,91,797/-. By virtue of the order dated 21.06.2010 passed by the learned Division Bench of this court in W.A.No.1152 of 2010, the entitlement of the petitioner to the said sum of Rs.2,91,797/- is not in dispute, but the said amount is sought to be withheld only on the ground of certain audit objections.

8. As already noted above, there was no liability fixed against the petitioner while he was in service. As the petitioner has attained the age of superannuation, the question of initiating any fresh proceedings at this point of time, after the date of superannuation, does not arise.

9. As seen from the counter-affidavit filed by the first respondent, there is nothing to suggest that any liability is fixed against the petitioner that would entitle the respondents to recover a sum of Rs.2,91,797/-. In view of the long lapse of time, it is also impermissible to allow the respondents to conduct any enquiry against the petitioner, as more than 14 years have lapsed since the date of filing of the present writ petition and that the petitioner has

also attained the age of superannuation as early as in the year 2006.

10. In the absence of any appropriate order fixing liability against the petitioner making him liable for an amount of Rs.2,91,797/-, the action of the respondents in withholding the said amount by passing the impugned orders behind his back is totally arbitrary and illegal.

11. In the light of the above, this court does not see any justification for the respondents to withhold or recover an amount of Rs.2,91,797/- from the terminal benefits payable to the petitioner and accordingly, the impugned orders are quashed, and the respondents are directed to pay an amount of Rs.2,91,797/- together with interest at the rate of 6% with effect from 08.10.2011 till the date of payment, as expeditiously as possible, at any rate within a period of two weeks from the date of receipt of a copy of this order.

12. Accordingly, the writ petition is allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

08.07.2025

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

To

1. The Chief Executive Officer,
   Tamil Nadu Khadi and Village,
   Industries Board, Kuralagam,
   Chennai – 600 108.

2. The Assistant Director,
   Khadi Village Industries,
   Tamil Nadu Khadi Village,
   Industries Board, Annappattu Maligai,
   Near Thiruvalluvar Statue,
   Salem – 636 001.

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.No.26680 of 2011

08.07.2025