



WEB COPY

WP No. 4528 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-02-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

**WP No. 4528 of 2018
and W.M.P.N.5579 of 2018**

1. S.Manimozhi,
39 Arivu Street, MKB, Nagar, New
Perungalathur, Chennai-63

Petitioner(s)

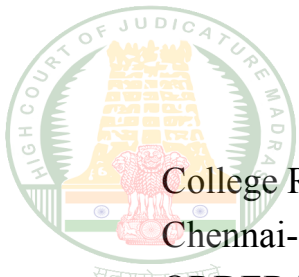
Vs

1. Tamil Nadu Civil Supplies
Corporation, rep by its Managing
Director, Chennai-10

2.The Board of Directors,
rep by its Company Secretary, The
Tamil Nadu Civil Supplies Corporation,
Chennai-10

3.The Tamil Nadu Civil Supplies
Corporation, rep by its Senior Regional
Manager, Chennai North Region,
Chennai-86

4.S.Nirmala,
Special Officer, HR AND CE Dept,



College Road, Nungambakkam,
Chennai-34.(R4-DISMISSED AS PER
ORDER DATED 07.02.2025 IN
WP.4528/2018 BY RNMJ)

Respondent(s)

PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a certiorarified mandamus calling for the records relating to the proceedings AD 5/ 86045/ 14 dated 28.12.2015 of the 1st respondent along with the proceedings No.AD 1/ 11693/ 2016 dated 22.12.2017 of the 2nd respondent and the consequential recovery proceedings Na.Ka. E1/ 4203/ 2015 dated 6.3.2017 of the 3rd respondent, quash all the three orders and consequently direct the respondents to release the consequential benefits with penal interest.

For Petitioner(s): M/s.S.Venkataraman

For Respondent(s): M/s. V.R.THİYAGARAJAN
FOR R1 to R3

R4- Disd Vide Court Order
Dt.07-02-2025

ORDER

The writ petition has been filed challenging the order passed by the first respondent in proceedings No. AD 5/ 86045/ 14 dated 28.12.2015, along with the proceedings of the second respondent in proceedings No.AD 1/ 11693/ 2016 dated 22.12.2017 and the consequential recovery proceedings of the third

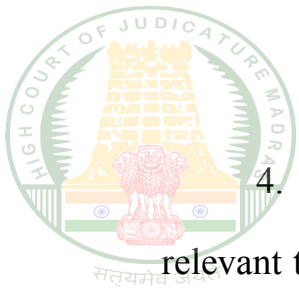


respondent in Na.Ka. E1/ 4203/ 2015 dated 6.3.2017, and consequently direct the respondents to release the consequential benefits with penal interest.

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2. The petitioner was working as Manager in the respondent corporation and the other person by name V.Jotheeswari was working as Deputy Manager and they were placed in the respondents' Chennai North Region Office. On the basis of certain allegations of causing loss to the Corporation, the petitioner and the Deputy Manager were subjected to disciplinary proceedings and charges have been proved and the petitioner was imposed with the punishment of stoppage of increment for two years with cumulative effect and to recover the loss if any caused to the Corporation, from the monetary benefit of the petitioner. The appeal preferred by the petitioner was rejected by confirming the order of punishment passed by the disciplinary authority and thereafter the recovery order was issued on 06.03.2017 and that is under challenge in this writ petition.

3. Mr.S.Venkataraman, the learned counsel for the petitioner, submitted that even the appeal filed by the petitioner against the order of disciplinary authority is pending, the recovery order has been issued in a prematured manner. He further submitted that no proper enquiry has been made to assess the quantum of the alleged damage and the recovery order has been issued in a mechanical manner and hence the same is liable to be quashed.



4. The co-delinquent who was working as a Deputy Manager at the relevant time has filed a writ petition in W.P.No.26113/2017 by challenging the order of the disciplinary authority and the appellate authority and this Court by order dated 19.6.2023 allowed the writ petition. The relevant paragraphs of the order dated 19.06.2023 is extracted hereunder:

“ ..11. On perusal of the impugned order of the 1 st respondent, it is seen that the 1 st respondent had ordered only stoppage of increment for a period of two years without cumulative effect and had only observed that if there had been any loss occasioned to the Corporation the same could be recovered from the Writ Petitioner. It is also seen from the impugned order that no documents were marked and no independent witnesses were examined. In a case of this nature when the main charge of causing huge monetary loss to the Corporation was specifically held not proved against the Writ Petitioner, the disciplinary authority ought to have adopted a proper approach before disposing of the matter. No doubt the disciplinary authority is entitled to take a different view from the one taken by the enquiry officer. However, while doing so the principles of natural justice would certainly require that the disciplinary authority to afford a fair opportunity to the Writ Petitioner to put forth all her contentions and thereafter the disciplinary authority ought to have marked documents and also examined relevant witnesses. In the said case admittedly, not even a list of documents and list of witnesses were enclosed along with the charge memo even at the



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inception. At least when the disciplinary authority wanted to differ with the findings of the enquiry officer it should have taken care and caution by conducting enquiry in a fair and transparent manner. Further, the action of the 3rd respondent in directing the recovery of a sum of Rs.12,08,589/- from the petitioner especially when the appeal was pending before the 2nd respondent was totally unwarranted and uncalled for, especially in the light of the fact that the disciplinary authority himself never quantified any loss that was caused to the Corporation as a result of any act or omission on the part of the Writ Petitioner. Further, the arguments put forth by the learned counsel for the petitioner with regard to delay also appeals to this Court. When the enquiry officer had given a categorical finding supported by reasons that the petitioner was not responsible for any monetary loss caused to the Corporation, it would be natural for the disciplinary authority to record reasons for differing with the same and intimate the said reasons to the Writ Petitioner simultaneously while communicating the enquiry report to the Writ Petitioner. There has been a delay of six months and it appears to be an after thought. One another important aspect to be noticed is that the petitioner was in charge of Movement and her immediate superior was in charge of not only movement but also storage. When the immediate superior was let off with a warning and no liability was fixed or punishment was imposed on the said immediate superior, this Court at a loss to understand as to how a subordinate employee who was not even in charge of storage could be saddled with such a monetary liability especially when the charge itself was revolving



around failure to store full capacity of essential commodities in the rental godown.

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12. *The further contention of the learned counsel for the Writ Petitioner that the cryptic fashion in which the appellate authority has dealt with the matter also cannot be brushed aside, even though this Court finds that the rejection of the appeal is not a single line order as projected by the petitioner and contended by the learned counsel. However, on perusal of the same, this Court finds that the appellate authority has not applied its mind independently to the facts and even the charges and findings have not been discussed and the appellate authority merely confirms the order passed by the disciplinary authority. If the appellate authority adopts such a procedure in deciding a statutory appeal, the very object of providing for such statutory appeals to correct erroneous orders by disciplinary authorities would stand defeated. The appellate authority should consider the charges, discuss the explanation offered by the delinquent officer or employee concerned one assess the same independently before concurring or dissenting with the findings of disciplinary authority. Merely endorsing the findings of the disciplinary authority as confirmed is certainly deplorable, especially in a case where the disciplinary authority has differed with the findings of the enquiry officer.*

13. *The contention of the learned counsel for the respondent Corporation that Civil suit has already been filed and therefore all these*



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issues can be thrashed out in the Civil suit and that the Writ Petition should not be entertained does not merit any consideration. The very claim made in the suit is only a consequential action of the respondent Corporation in furtherance of the impugned order passed by the 3rd respondent. If the impugned order itself is bad in the eye of law, the very cause of action for filing of the Civil Suit itself vanishes and therefore the Writ Petition, is certainly maintainable as prayed and the pendency of the Civil Suit is no way a bar for this Court entertaining the Writ Petition and dispose of the same on merits. For the above reasons, this Court allows the Writ Petition. No costs. Consequently, connected miscellaneous petitions are closed”

5. Since the petitioner is also similarly placed, I feel the same relief can be extended to the petitioner also.

6. Accordingly, this Writ Petition is allowed in the similar lines as that of the order passed by this Court in W.P.No.26113/2017 dated 19.06.2023. No costs. Connected miscellaneous petition is closed.

20-02-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Managing Director,
Tamil Nadu Civil Supplies
Corporation, Chennai-10

2. The Board of Directors,
rep by its Company Secretary, The
Tamil Nadu Civil Supplies Corporation,
Chennai-10

3. Senior Regional Manager,
The Tamil Nadu Civil Supplies
Corporation, Chennai North Region,
Chennai-86

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R.N.MANJULA, J.

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