



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.04.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 10396 of 2024

And

W.M.P.No. 11401 of 2024

K.S.Nandakumar

... Petitioner

..Vs..

1. The Secretary
Ministry of Ports, Shipping and Waterways
Government of India
Transport Bhavan, 1, Parliament Street,
New Delhi – 110 001.

2. The Chiarmman
Chennai Port Trust
Rajaji Salai,
Chennai – 600 001.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the order passed by the first respondent dated 17.01.2024 bearing reference No.C-16018/6/2023-Vigilance and the order of the 2nd respondent dated 03.02.2023 bearing reference No.V4/264/2017/Vig and quash the same.



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For Petitioner	:: Ms. Aishwarya S.Nathan
For 1 st Respondent	:: Mr. D.iman CGSC
For 2 nd Respondent	:: Mr.A.Kumaraguru Standing Panel Counsel

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records of an order passed by the first respondent dated 17.01.2024 and of the second respondent dated 03.02.2023 and to quash both the orders.

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had been initially appointed as Mazdor (Calss IV) in Chennai Port Trust in 1984. He was subsequently promoted as Assistant Materials Manager -Grade II in Materials Management Division (“MM Division”) of the Mechanical and Electricals Engineering Department at Chennai Port Trust on 27.04.2015. It is stated that an E-auction had been conducted relating to disposal and removal of top layer of ore fines at Bharathi Dock-II by M/s. MSTC Limited, Chennai. There were various issues which had arisen owing to the said e-auction and the



allegation that the amount determined as the base price was very low.

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3. The petitioner claims that he was not involved in determining the base price.

4. It was contended by the respondents that the petitioner had undervalued the base price. In this connection, a charge memo had been issued to the petitioner herein. The petitioner had given an explanation. An enquiry was also conducted. The charge was declared to be proved. Thereafter, the disciplinary authority / the second respondent had passed an order of withdrawal of pension by 33% for a period of 60 months and reduction of gross payable by 25% with immediate effect. It was stated that subsistence allowance shall be paid with effect from the date of suspension till date of the order. There was an Appellate provision available and the petitioner had filed an Appeal. But the Appeal was rejected by an order dated 17.01.2024. Both these orders are put to test in the present Writ Petition.

5. It had been contended by the learned counsel for the petitioner that the petitioner had earlier filed W.P.No. 17533 of 2020 in the nature of a



certiorari seeking records relating to the enquiry process.

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6. One of the grounds raised was that the Chairperson had initiated disciplinary proceeding and had also passed the order imposing punishment against the petitioner herein. A learned Single Judge of this Court had therefore set aside the impugned order impugned in that writ petition and had remitted the matter back to the respondents for fresh consideration.

7. It is contended that after the matter had been remitted back, the present order now impugned had been passed wherein the disciplinary authority had not applied his mind afresh but had only agreed with the earlier findings. When the Court had set aside the order of disciplinary authority and had directed fresh consideration, a responsibility was cast to independently examine the entire issue and give reasons for coming to a conclusion. The authority had only followed the earlier order which had been set aside.

8. The orders impugned are both set aside. The matter is remitted back to the second respondent and it is fervently hoped that the second respondent would examine the enquiry report, the statements of the witnesses on the basis of which the enquiry Officer had held that the charges were proved and thereafter examine whether he should come to the



very same conclusion or come to a different conclusion and then pass a reasoned order and thereafter give reasons for the nature of punishment to be imposed.

9. Let the matter be examined afresh by the second respondent. The Writ Petition stands allowed. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

10. The second respondent may also grant an opportunity of hearing to the petitioner if the second respondent is of that opinion. The second respondent may re-examine the entire issue in accordance with the aforementioned directions and pass impugned orders within a period of 8 weeks from the date of receipt of a copy of this order.

17.04.2025

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Index: Yes/No
Internet: Yes/No

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C.V.KARTHIKEYAN, J.,

vsg

To

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