



W.A.No.1214 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 27.02.2025

Coram:

**THE HON'BLE MR.JUSTICE S.S.SUNDAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.No.1214 of 2023
and C.M.P.No.12327 of 2023**

The Managing Director,
Tamil Nadu Warehousing Corporation,
No.82, Anna Salai, Guindy,
Chennai – 32.

...Appellant

Versus

Thiru.B.Rengabashayam

...Respondent

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order passed in W.P.No.28786 of 2018 dated 13.03.2023 in so far as direction to grant notional promotion to the respondent, to the post of Warehouse Manager, Grade-I / Deputy Manager, on par with his junior with all consequential benefits alone is concerned.



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W.A.No.1214 of 2023

For Appellant : Mr.Haja Nazirudeen,
Additional Advocate General - I
Assisted by Ms.M.Ramya

For Respondent : Mr.G.Sankaran,
Senior Counsel
Assisted by Mr.J.Jayamalan

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.**)

This intra Court Appeal is directed against the impugned order dated 13.03.2023 in W.P.No.28786 of 2018 passed by the Writ Court.

2. By the impugned order dated 13.03.2023, the Writ Court has partly allowed the above writ petition filed by the respondent/writ petitioner.

Operative portion of the impugned order reads as under:

“13. In the light of the above findings, no interference is required to the impugned orders of punishment dated 19.03.2015 and 26.12.2017. However, since this Court has held that the petitioner-s name was illegally rejected for consideration in 2014 panel, there shall be a direction to the respondent herein, to forthwith pass orders, notionally promoting the petitioner to the post of Warehouse Manager Grade-I/Deputy Manager, in the 2014 promotional panel dated 13.08.2014, drawn with a crucial date of 01.05.2014, on par with his immediate junior, together with all service and monetary benefits. Such orders shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order.”



W.A.No.1214 of 2023

WEB COPY

3. The brief facts of the case are that the respondent/writ petitioner was issued with a Charge Memo dated 04.09.2014 by the appellant Corporation. Charges were framed against the respondent/writ petitioner under Rule 14(2) of the Tamil Nadu Warehousing Corporation General and Staff Regulations, 1965 (for brevity, “1965, Regulations”) and Tamil Nadu Government Servants' Conduct Rules, 1973 for non-collection of Storage Charges, misappropriation of Imprest Cash, taking medical leave without prior intimation of the immediate superior for making alternative arrangements and carelessness in abiding the Warehouse Corporation procedures.

4. An Enquiry Officer was appointed to inquire the charges framed against the respondent/writ petitioner. After a detailed enquiry, the Enquiry Officer submitted an Enquiry Report on 29.12.2014. Thereafter, vide Communication dated 06.01.2015, the appellant called upon the respondent/writ petitioner to submit his explanation, in response to which, the respondent/writ petitioner submitted his explanation on 13.01.2015.



W.A.No.1214 of 2023

WEB COURT

5. After having perused all the records, findings of the Enquiry Officer and explanation submitted by the respondent/writ petitioner, the appellant/Disciplinary Authority vide order dated 19.03.2015, imposed the punishment of “Censure” on the respondent/writ petitioner. Aggrieved over the same, the respondent/writ petitioner had preferred an appeal before the Executive Committee of Tamil Nadu Warehousing Corporation. However, the Executive Committee vide proceedings bearing Rc.2710/2017/E4 dated 26.12.2017, rejected the said appeal.

6. Thereafter, the aggrieved respondent/writ petitioner filed W.P.No.28786 of 2018 before this Court praying to quash the punishment order dated 19.03.2015 and proceedings dated 26.12.2017 and for a direction to the appellant to promote the respondent/writ petitioner to the post of Warehouse Manager Grade-I/Deputy Manager in the Pay Band of Rs.9,300-34,800/- plus Rs.5100/- Grade Pay w.e.f. 13.08.2014 with monetary benefits arising out of such fixation.



W.A.No.1214 of 2023

7. Mr.Haja Nazirudeen, learned Additional Advocate General – I appeared on behalf of the appellant submitted that the respondent/writ petitioner joined duty on 13.05.1992 as a Record Clerk in the appellant Corporation. On 04.09.2014, the respondent/writ petitioner was issued with the aforesaid Charge Memo, pursuant to which, the appellant/Disciplinary Authority vide order dated 19.03.2015, imposed the punishment of “Censure” on the respondent/writ petitioner.

7.1. The learned Additional Advocate General – I further submitted that the charges framed against the respondent/writ petitioner under Rule 14(2) of the 1965, Regulations were major charges. Therefore, there was no scope for promoting the respondent/writ petitioner during the pendency of Disciplinary Proceedings.

7.2. That apart, out of 19 eligible persons in the panel drawn on 04.08.2014, the name of the respondent/writ petitioner was at Serial No.10. While so, 8 vacancies arose during the period between 01.05.2014 to 01.08.2014 and hence, the persons at Serial Nos.1, 2 & 4 to 9 were



W.A.No.1214 of 2023

considered for promotion on 26.08.2014. Therefore, the name of the

respondent/writ petitioner was not considered by the appellant Corporation.

7.3. It is submitted that the promotion of respondent/writ petitioner was withheld in view of the disciplinary proceedings and that after the currency of punishment, the name of the respondent/writ petitioner was considered in the Panel for Promotion in the year 2016. Thus, the respondent/writ petitioner was promoted to the post of Warehouse Manager Grade-I/Deputy Manager w.e.f. 30.11.2016. Therefore, the impugned order passed by the Writ Court directing the respondents to promote the petitioner notionally to the post of Warehouse Manager Grade-I/Deputy Manager was incorrect and the same is liable to be interfered.

7.4. It is also submitted by the learned Additional Advocate General – I that the order dated 19.03.2015 imposing the punishment of Censure on the respondent/writ petitioner as per G.O.Ms.No.22 Personnel and Administrative Reforms (S) Department dated 24.02.2014 which amended the Rule 4(a) of the Tamil Nadu State and Subordinate Services Rule with



W.A.No.1214 of 2023

retrospective effect was also affirmed by the Writ Court.

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8. Defending the impugned order, Mr.G.Sankaran, learned Senior Counsel appeared on behalf of the respondent/writ petitioner submitted that the impugned order of the Writ Court was well reasoned and therefore, does not warrant an interference. Hence, the learned Senior Counsel prayed for dismissal of this writ appeal.

8.1. Further, the learned Senior Counsel for the respondent/writ petitioner drew our attention to *plethora* of judgments rendered by the Hon'ble Supreme Court as well as by this Court in the following cases:

(i) *Union of India & Ors. Vs. K.V.Janakiraman & Ors.* 1991 (4) SCC 109

(ii) *Union of India Vs. N.R.Banerji & Ors.* 1997 (9) SCC 287

(iii) *Bank of India & Ors. Vs. Degala Suryanarayana* 1999 (5) SCC 762

(iv) *Delhi Jal Board Vs. Mahinder Singh* 2000 (7) SCC 210

(v) *Coal India Ltd. & Ors. Vs. Saroj Kumar Mishra* 2007 (9) SCC 625

(vi) *Union of India & Ors. Vs. Hemraj Singh Chowhan & Ors.* 2010 (4) SCC 290



W.A.No.1214 of 2023

WEB COPY

(vii) Jagadish Prasad Vs. State of Rajasthan 2011 (7) SCC 789

(viii) The Engineer in Chief & Ors. Vs. C.L.Pasupathy 2013 SCC Online Mad 592

(ix) The Deputy Inspector General of Police & Ors. Vs. Rani 2011 (3) CTC 12

(x) The Govt. of Tamil Nadu & Anr. Vs. M.Balamohana Murugan (W.A.No.271 of 2020 & 626 of 2021 dated 02.09.2021)

(xi) The Govt. of Tamil Nadu & Anr. Vs. M.Balamohana Murugan (SLP (C) Diary No.25219 of 2022 dated 12.09.2022)

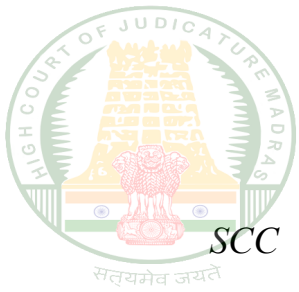
(xii) The State of Tamil Nadu & Anr. Vs. S.Kalaimurugan (W.A.No.1151 of 2018 dated 26.06.2018)

(xiii) The State of Tamil Nadu & Anr. Vs. A.Jayakumar (W.A.No.1901 of 2024 dated 10.07.2024)

(xiv) The Secretary to Govt. & Anr. Vs. R.Murugesan (W.A(MD).No.350 of 2010 dated 10.08.2010)

9. We have considered the arguments advanced by the learned counsel on either side and also, we have perused the materials placed before us.

10. In **Union of India & Ors. Vs. K.V.Janakiraman & Ors. 1991 (4)**



W.A.No.1214 of 2023

SCC 109, the Hon'ble Supreme Court had categorically held that mere preparation of Charge Memo is not sufficient and unless, the Charge Memo is issued to the concerned employee, it cannot be said that the disciplinary proceedings have commenced or pending. Further, the Hon'ble Supreme Court had taken note of the decision of the Full Bench of the Tribunal regarding the sealed cover procedure.

11. We are therefore in agreement with the view expressed by the Writ Court. Therefore, no interference is required to the order dated 19.03.2015 imposing punishment of Censure on the respondent/writ petitioner pursuant to the Charge Memo dated 04.09.2014 issued under Rule 14(2) of 1965, Regulations. We are also of the view that imposition of minor penalty of Censure on the respondent/writ petitioner will not deprive the promotion of respondent/writ petitioner.

12. In view of the above discussion, we are inclined to dismiss this



W.A.No.1214 of 2023

Writ Appeal. Accordingly, this Writ Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.)

(C.S.N., J.)

27.02.2025

mrr

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order

To

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S.S.SUNDAR, J.



WEB COPY



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W.A.No.1214 of 2023

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