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W.A.No.1722 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **G. ARUL MURUGAN**

W.A.No. 1722 of 2024
and CMP No.12113 of 2024

The Chairperson,
Chennai Port Authority,
(Formerly Known as Chennat Port Trust)
Rajaji Salai, Chennai 600 001.

...Appellant

Vs.

1. B. Vimal
Working as Senior Deputy Traffic Manager,
Traffic Department,
Chennai Port Authority, Rajaji Salai,
Chennai 600 001.

2. Ministry of Shipping,
Rep by its Secretary,
Government of India,
Parivahan Bhavan,
1, Parliament Street,
New Delhi 110 001.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order passed in WP No.4155 of 2021 dated 15.11.2023.

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For Appellant : Mr.P.M.Subramanian, Senior Counsel
M/s.Karthikeyan Raju

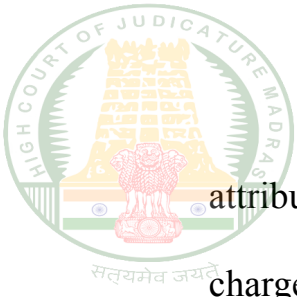
For Respondents : Mr. Balan Haridas, for R1
Mr. Rajesh Vivekananthan,
Deputy Solicitor General, for R2

J U D G M E N T

*(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)*

Challenge is to the order of the Writ Court made in WP No.4155 of 2021, in and by which, the Writ Court had set aside the punishment imposed on the respondent by the appellant Port Trust.

2. The respondent, who was working as a Senior Deputy Traffic Manager and the Traffic Manager In-charge, was charged with certain indiscretion in reclassification of industrial salt as raw salt (Food Product). An Enquiry Officer was appointed and the Enquiry Officer taking note of the fact that there was no financial loss to the Port Trust because the customer repaid the differential duty with penalty and no *mala fide* could be



attributed to the respondent for such reclassification concluded that the charges have not been proved.

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3. The Disciplinary Authority, however, disagreed with the findings of the Enquiry Officer and issued a notice on 17.09.2020 requiring the respondent to submit his explanation. After receiving the explanation, the Disciplinary Authority imposed a punishment of reduction of pay by three stages in the present scale of pay for a period of one month without cumulative effect. It is this order imposing punishment which is the subject matter of challenge before the Writ Court. The learned Single Judge found that the action of the Disciplinary Authority in reaching a conclusion to differ from the Enquiry Report and thereafter, issuing a notice is flawed. Not stopping there, the Writ Court went a step further and held that if the Disciplinary Authority wants to differ from the report of the Enquiry Officer, it should have filed an Appeal before the Appellate Authority. It is for the Appellate Authority to have reconsidered the materials and pass orders, either accepting or rejecting the enquiry report. The Port Trust feels aggrieved by this observation of the learned Judge more than the order setting aside the punishment.

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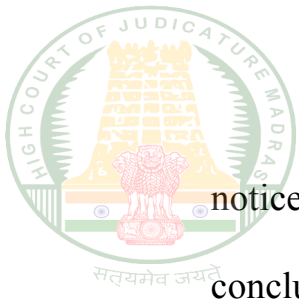
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4. Rule 13(2) of the Chennai Port Trust Employees' (Classification, Control and Appeal), Regulations 1988, reads as follows:

13. Action on the inquiry report:

(2) The Disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge if the evidence record is sufficient for the purpose.

5. From the above, it is open to the Disciplinary Authority to disagree with the findings of the Enquiry Officer. While interpreting the power of the Disciplinary Authority by laying down the procedure when the Disciplinary Authority intends to disagree with the findings of the Enquiry Officer, this Court and the Hon'ble Supreme Court have repeatedly held that the delinquent employee should be informed of the intention to differ and his explanation should be sought for. Therefore, the issuance of show cause



notice must be prior to the conclusion to differ and not after reaching the conclusion to differ.

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6. Admittedly, there is a violation in this regard. Moreover, the charge also relates to reclassification and it is not stated that the reclassification was done with a *mala fide* intention. We also find that the importer has paid the differential duty as well as the penalty thereby financial loss to the Port Trust has been avoided. More than the punishment, it is the consequence of the punishment that affects the employee. As a result of this punishment, the employee will be debarred from participating in any selection for higher Post for a period of 5 years from the date of the punishment. This, in our opinion, will be too harsh when compared to the proved delinquency. We are therefore of the opinion that while the learned Single Judge was right in setting aside the punishment, the observations in paragraphs 7 and 8 of the order may not be correct.

7. While sustaining the conclusion of the learned Single Judge, we set aside the observations in paragraphs 7 and 8 of the order impugned. The



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Writ Appeal is disposed of with the above direction. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)

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jv

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

To

1. The Chairperson,
Chennai Port Authority,
(Formerly Known as Chennat Port Trust)
Rajaji Salai, Chennai 600 001.
2. The Secretary,
Ministry of Shipping,
Government of India,
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