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W.P.No.14561 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2025

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.14561 of 2014
and
M.P.Nos.1 of 2015 and 2 of 2014

M.Namachivayam
S/o.Mr.Manickam Pillai

... Petitioner

vs.

1. The Chief Executive Officer
Tamil Nadu Khadi and Village Industries Board
Kuralagam Buildings
Chennai-108.
2. The Assistant Director
Kadhi & Village Industries Board
Coimbatore
Coimbatore District.
3. Enquiry Officer / Assistant Director
Kadhi & Village Industries Board
Tiruppur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.36041/E3(2)/03 dated 21.04.2014 on the file of the first respondent, quash the same and consequently, to direct the third respondent

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to conduct domestic enquiry against the petitioner after furnishing the documents prescribed by this Hon'ble Court in W.P.No.23528 of 2006.

For Petitioner : Mr.A.Immanuel
For Respondents : Mr.C.Rajakumar
Standing Counsel

ORDER

The challenge in this writ petition is to the order dated 21.04.2014 bearing Reference No. Na.Ka.No.36041/E3(2)/03, passed by the first respondent. By the said order, the petitioner, who was working as Bee Fieldman Grade-I in the Gudalur Khadar Shop, was removed from service for the alleged misappropriation of Board funds amounting to Rs.2,85,485/-, resulting in a shortage of stock in the Gudalur Khadar Shop, and Rs.4,13,883/- towards loss of funds resulting in a shortage of stock in the Udagai Carpentry and Blacksmith Unit.

2. The petitioner, while working as Bee Fieldman Grade-I, was issued with a charge memo. The charge memo dated 17.12.2003 reads as follows:



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“Charge No.1

A fake loan list were prepared in the name of Gudalur Government Hospital Employees and the Board funds amounting to Rs.64,519/- was misappropriated.

Charge No.2

Fake loan lists were prepared as if the teachers of Fatima Girls High School, Gudalur, Khadi borrowed Khadi loan and embezzled Rs.20,379/- from the Board.

Charge No.3

He prepared fake lists as if teachers of Saint Maria Annai Primary School, Gudalur have taken loans and embezzled Rs.8,224/- of the Board funds.

Charge No.4

Rs.56,107/- in the name of 12 private individuals were collected and misappropriated the Board funds by preparing a fake list of loans in the name of 12 private individuals.

Charge No.5

Fake loan lists were prepared in the name of individuals and the Board funds Rs.1,36,256/- has been handled.

Charge No.6

While working in Gudalur Khadi Store caused loss to the Board by incurring huge stock shortage amounting to Rs.3,26,195/-.



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Charge No.7

In Udagai Carpentry Unit, there is shortage of stock of Rs.87,688.50 and he caused loss to the Board.

Charge No.8

The said bogus lists were prepared in the name of employees and other individuals working in other departments which tarnished the reputation of the Board and caused substantial financial loss to the Board.

Charge No.9

By committing above mentioned eight charges, he failed in his basic responsibility and duty.”

3. The petitioner, who was called upon to submit his explanation to the show cause notice, requested the respondents to furnish the relevant documents. The respondents contend that all the documents sought for were furnished on 18.09.2006 and 19.09.2006. Despite furnishing the relevant documents , the petitioner demanded to furnish irrelevant documents with the intention of prolonging the enquiry proceedings. The respondents



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further contend that, despite repeated reminders, the petitioner refused to cooperate with the enquiry and also did not appear before the Enquiry Officer. The Enquiry Officer thereafter conducted the enquiry and submitted a report holding that the charges were proved.

4. The Disciplinary Authority issued the second show cause notice to the petitioner calling upon him to show cause as to why the enquiry report should not be accepted and appropriate punishment should not be imposed. The petitioner submitted further explanation denying the charges and stated that the relevant documents were not furnished and that he was forcibly made to work as Manager despite having no experience, and therefore the charges against him are without substance. The Disciplinary Authority, after recording the charges, the findings of the Enquiry Officer and the explanation submitted by the petitioner to the second show cause notice, passed the impugned order. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Mr. A. Immanuel, learned counsel for the petitioner, submitted that,



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in terms of Regulation 34 of the Tamil Nadu Khadi and Village Industries Board Service Regulations [hereinafter “the said Regulations” for the sake of brevity, convenience and clarity], the Enquiry Officer is under an obligation to consider the documents as well as examine the witnesses and thereafter submit a report as to whether the charges against the delinquent are proved or not. In the present case, the Enquiry Officer, without referring to any documents to substantiate the allegations against the petitioner, recorded a finding that the charges against the petitioner were proved. Moreover, none of the management witnesses were examined to substantiate the allegation of misappropriation. Therefore, the enquiry conducted against the petitioner is in violation of Regulation 34 of the said Regulations.

6. He further submitted that the respondents have not produced the alleged fake loan list either before the Enquiry Officer or before this Court. The initiation of the enquiry against the petitioner was only a namesake exercise. He further submitted that the Disciplinary Authority has not



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properly considered the explanation submitted by the petitioner and has rejected the same without any independent assessment. The Disciplinary Authority has also failed to form an independent opinion while accepting the enquiry report. Therefore, the impugned order passed by the Disciplinary Authority is not a speaking order and is in violation of the principles of natural justice.

7. In response, Mr. C. Rajakumar, learned Standing Counsel for the respondents, submitted that the petitioner, having neither participated in the enquiry nor filed his defence statement, left the Enquiry Officer with no alternative but to consider the available materials and submit a report holding that the charges against the petitioner stood proved. Therefore, the enquiry conducted by the Enquiry Officer was strictly in conformity with Regulation 34 of the said Regulations. He further submitted that the Disciplinary Authority, after considering all the materials on record, including the explanation submitted by the petitioner, has rightly passed the impugned order and the same does not warrant any interference.



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WEB COPY 8. The arguments of the parties and the materials placed on record have been duly considered.

9. The sum and substance of the allegation against the petitioner is that he created false loan records and misappropriated a sum of Rs.1,31,256/- of Board funds. Since he did not hand over charge, the stock was verified on 27.09.2003 in the presence of the Revenue Inspector, during which a shortage of materials worth Rs.3,26,195/- in the Gudalur Khadi Angadi, goods worth Rs.87,688.50, and shortage of goods in the Udagai Carpentry and Blacksmith Unit were detected. However, the false loan records alleged to have been created by the petitioner, which form the basis for the accusation of misappropriation, have not been produced either before the Enquiry Officer or before this Court. Though the Enquiry Report states that the relevant documents were considered by the Enquiry Officer, those documents have not been placed on record, nor have they been discussed in the findings extracted in the report. The findings recorded by the Enquiry officer are extracted hereunder:



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WEB COPY “Charge No.1

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan records in the name of the employees of Gudalur Government Hospitals and appropriated Rs.64,519/- from Board funds.

Hence, this charge is proved.

Charge No.2

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan records as if the teachers of Gudalur Fathima Higher Secondary School purchased Khadi for Rs.20,379/- and misappropriate said amount.

Hence, this charge is proved.

Charge No.3

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan records as if the teachers of Primary St.Mary’s School purchased Khadi loan for Rs.8,224/- and misappropriated said amount.



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Hence, this charge is proved.

Charge No.4

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan records 12 individuals purchased Khadi on loan for Rs.56,107/- and misappropriated the said amount.

Hence, this charge is proved.

Charge No.5

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan report in the name of certain individuals for Rs.1,36,256/- and misappropriated amount.

Hence, this charge is proved.

Charge No.6

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He caused shortage of materials worth Rs.3,26,195/- in Gudalur Khadi Angadi.



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Hence, this charge is proved.

Charge No.7

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He caused shortage of materials worth Rs.87,688.50 worth material in Udagai Carpentry and Blacksmith Unit.

Hence, this charge is proved.

Charge No.8

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. He prepared false loan report as if employees of other Departments borrowed Khadi loan and misappropriated the amount. Thereby, he caused loss to the Board and tarnished the image of the Board.

Hence, this charge is proved.

Charge No.9

In respect of this charge, relevant official documents were examined. The delinquent did not submit his explanation and did not appear for enquiry and did not submit his defense statement in writing. As the above charges 1 to 8 are proved, it is further proved



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Hence, this charge is proved.”

10. The respondents have not examined any witnesses before the Enquiry Officer to substantiate the allegations made against the petitioner. Regulation 34 clearly stipulates that even if a charged person waives an oral enquiry, such enquiry shall nevertheless be conducted by the authority concerned in respect of charges which are not admitted and which can be proved only through the evidence of witnesses. Therefore, the respondents were obligated to examine witnesses before the Enquiry Officer to prove the charges against the petitioner. However, the respondents have failed to examine any witnesses. Except for the bare allegation of misappropriation, no evidence has been produced by the respondents that could be considered cogent or sufficient to establish the charges.



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11. Upon receipt of the Enquiry Report, the Disciplinary Authority issued the second show cause notice to the petitioner, to which he submitted his explanation stating that he had been forcibly made to work as Manager in charge of the said two units and that he had not been provided with the relevant documents to file his defence statement. Although the respondents claim that the relevant documents were furnished, they have not disclosed precisely which documents were supplied to the petitioner. Further, those documents were not discussed either by the Enquiry Officer or by the Disciplinary Authority in the impugned order.

12. It is a settled principle of law that punishment in a departmental enquiry can be sustained only when the foundational requirements of a valid charge memo, adherence to principles of natural justice, proof of charges by legally acceptable evidence, independent application of mind by the disciplinary party are strictly complied with. Any infraction of these essential elements vitiates the entire disciplinary proceedings and renders the order of punishment liable to be quashed.



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13. The Disciplinary Authority, after recording the charges framed against the petitioner, findings of the enquiry officer and the explanation submitted by the petitioner, concluded that all nine charges framed against the petitioner stood proved. However, the Disciplinary Authority has not independently applied its mind to the materials on record, including the explanation submitted by the petitioner. Therefore, the impugned order passed by the Disciplinary Authority is not a speaking order and is in violation of the principles of natural justice.

14. Even in the counter affidavit filed before this Court by the first respondent, there is no reference to any of the relevant documents said to have been produced before the Enquiry Officer to substantiate the allegation that the petitioner misappropriated the monies belonging to the Board. Significantly, the vital documents relating to the alleged fake loan records were neither part of the enquiry proceedings nor produced before this Court.



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15. In the light of the above discussion, this Court is of the considered view that the respondents have failed to produce any evidence, much less cogent evidence, to substantiate the allegations against the petitioner. The Enquiry Officer, without conducting the enquiry in the manner mandated under Regulation 34 of the said Regulations, submitted a report, and the Disciplinary Authority, without passing a speaking order or assigning any reasons, simply accepted the report. Such acceptance without independent scrutiny is in clear violation of the principles of natural justice. Accordingly, the impugned order passed by the first respondent is unsustainable and liable to be set aside.

16. The learned counsel for the respondent Board submitted that the Board is facing financial constraints and, therefore, the petitioner is not entitled to claim salary for the entire period of non-employment, particularly in view of the principle of “no work, no pay.” Taking into consideration this submission and the financial condition of the respondent Board, this Court deems it appropriate to restrict the payment of salary for



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the period of non-employment to 30%.

17. In the result, the captioned Writ Petition is allowed and the impugned order dated 21.04.2014 bearing reference Na.Ka.No.36041/E3(2)/03 is hereby set aside.

18. The petitioner, who is on the verge of retirement from service and will attain the age of superannuation by the end of this month, is entitled to 30% of salary from the date of non-employment till the date he attains the age of superannuation. The petitioner is also entitled to pension and other pensionary benefits. Such pension and pensionary benefits including 30% arrears of salary shall be disbursed to the petitioner within a period of three (3) months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

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HEMANT CHANDANGOUDAR, J.,

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