



W.P.No.34395 of 2022

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IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 25.04.2025

CORAM

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.34395 of 2022

and

WMP.No's.33855 & 33859 of 2022 and 7653 of 2024

G.Chandramouli

...Petitioner

Vs.

1.The Chairman & Managing Director,
National Textile Corporation Ltd.,
Core -IV, Scope Complex, 7, Lodhi Road,
New Delhi-110001.

2.The Appellate Authority,
National Textile Corporation Ltd.,
Core – IV, Scope Complex, 7, Lodhi Road,
New Delhi- 110001.

3.The Disciplinary Authority,
National Textile Corporation Ltd.,
Core – IV, Scope Complex, 7, Lodhi Road,
New Delhi-110001.

...Respondents

Writ petition is filed under Article 226 of the Constitution of India
praying to issue Writ of Certiorarified Mandamus, call for the records of the 3rd



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respondent dated 14.02.2022, to call for the records pertaining to order passed in NTC/PERS/3(30)/2020 dated 14.02.2022 appointing Mr.Umakant Lal as enquiry officer and to call for the records pertaining to order passed in NTC/PERS/3(30)/2020 dated 10.03.2022 appointing Mr.L.Murugan as a presenting officer and to quash the same as being arbitrary, illegal, violative of the principles of natural justice besides being violative of the provisions of the Conduct, Discipline and Appeal Rules, 2009 and consequently direct the 1st respondent to accept the findings of the enquiry report dated 20.01.2020 passed by the enquiry officer.

For Petitioner : Mr.K.M.Ramesh,
Senior Advocate
for Mr.Adithya Varadarajan
For Respondents : Mr.M.Karthikeyan

ORDER

Challenging the impugned order of the 3rd respondent dated 14.02.2022, appointing the enquiry officer and the presenting officer, for conducting denovo enquiry against the petitioner, the above writ petition is filed.

2. The petitioner was initially appointed as Deputy General Manager (Technical) and later promoted as General Manager (Technical) in the



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respondent corporation. While working as General Manager (Technical) at Sri

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Ranga Vilas Mills, Coimbatore, the petitioner was issued a show cause notice on 16.03.2016, imputing certain misconducts against him. The petitioner submitted his reply to the show cause notice and thereafter, the charge memo dated 15.09.2016, containing six counts of charges was issued to petitioner. The petitioner submitted his explanation to the charge memo on 07.11.2016, and thereafter an enquiry was ordered. After due enquiry, the enquiry officer submitted his report on 01.06.2019, partially absolving the petitioner of the charges levelled against him. The Disciplinary Authority, Joint Secretary, Ministry of Textiles, on receipt of the enquiry report not being satisfied with the same ordered for De novo enquiry vide his proceedings dated 17.01.2020. As no opportunity was given to the petitioner before the decision to conduct de novo enquiry was taken, the petitioner preferred an appeal against the order dated 17.01.2020, to the appellate authority. The appellate authority did not consider the petitioner's appeal and so the petitioner filed W.P.No.2449 of 2021, for a Writ of Certiorari to quash the order dated 17.01.2020. The said writ



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petition was disposed of on 08.02.2021, by this court directing the appellate authority (who must be an independent authority) to hear the petitioner's appeal by affording an opportunity of hearing to the petitioner, and pass orders within 60 days of the receipt of the order. Pursuant to the aforesaid order of this court, a board was constituted to hear the petitioner's appeal. The petitioner appeared before the Board on 16.12.2021, submitted his detailed explanation and prayed for setting aside the order directing Denovo enquiry. Whiles, the petitioner received the impugned orders dated 14.02.2022, and 10.03.2022 appointing the enquiry officer and the presenting officer for conducting the denovo enquiry. Aggrieved by the said impugned orders, the petitioner has filed the above writ petition for the aforesaid relief.

3. The respondents in their counter stated *inter alia*, that in obedience to the order of this court dated 08.02.2021 in W.P.No.2449 of 2021, the petitioner was afforded opportunity of hearing and only after considering the petitioner's written representation, the decision to conduct denovo enquiry was taken. The respondents submitted that the impugned order was only a communication of



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the decision of the Board for appointing the new enquiry officer and therefore it did not require any further order. The respondents stated that, in any event, the petitioner having participated in more than 12 hearings, cannot question the validity of the proceedings as improper and invalid. The respondents further stated that only to drag on the proceedings the petitioner filed the writ petition and so he should be directed to participate in the enquiry. The respondents therefore prayed for dismissal of the writ petition as meritless.

4. The learned counsel for the petitioner mainly contended that though in compliance of the order of this court dated 06.12.2021, the respondents conducted an enquiry by affording an opportunity of hearing to the petitioner, no specific orders were passed in the appeal. The counsel contended that even without passing orders in the petitioner's appeal, the respondents straightway by the impugned orders appointed the enquiry officer and the presenting officer to conduct the enquiry. The counsel further contended that mere participation in the denovo enquiry did not bar the petitioner from questioning the illegality or



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invalidity of the proceedings. The counsel therefore prayed that the writ

petition be allowed.

5. The learned counsel for the respondents on the other hand contended that no order was required to be passed as the impugned order appointing the enquiry and the presenting officer's itself amounts to rejection of the petitioner's appeal. The counsel further contended that Rule 25.11 of the Conduct, Discipline & Appeal Rules, 2009, does not contemplate any such order. The counsel contended that the petitioner having participated in 12 hearings in the denovo enquiry proceedings, only to drag on the proceedings had filed the above vexatious writ petition. The counsel therefore prayed that the writ petition be dismissed.

6. Heard both counsels and perused the records.

7. Since the factual matrix of the case remains undisputed, the same is not traversed herein so as to avoid unnecessary repetition. The core issue for consideration is whether in the absence of a reasoned order either rejecting or allowing the petitioner's appeal against the order dated 17.01.2020, directing a



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denovo enquiry, the subsequent impugned orders dated 14.02.2022 and 10.03.2022, appointing the enquiry and presenting officer' to conduct denovo enquiry are valid and legally sustainable.

8. The Disciplinary Authority, being dis-satisfied with the findings of the enquiry report dated 01.06.2019, which had partially absolved the petitioner of the charges framed against him under the charge memo dated 15.09.2016, directed denovo enquiry by order dated 17.01.2020. The petitioner challenged the denovo enquiry order in W.P.No.2249 of 2021, *inter alia*, on the ground that it was in violation of the principles of natural justice, as no opportunity of hearing or explanation was called prior to the issuance of the said order and that no cogent reasons were assigned for initiating a denovo enquiry. Moreover, the appellate remedy contemplated under the Conduct, Discipline & Appeal Rules, 2009, was rendered illusory, as the same authority who passed the impugned order sat in appeal over its own decision. Considering the said contentions, this court by its order dated 08.02.2021, disposed of the writ petition with the following directions:

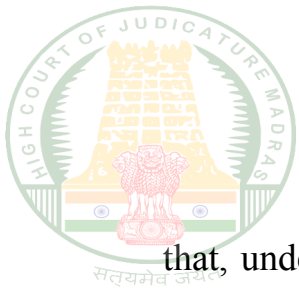


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“4. This court is not going into the various aspects and grounds raised by the petitioner before this court with regard to ordering of de novo enquiry and it is for the Appellate Authority, who must be an independent authority and not the very same authority, to decide the matter, in accordance with the law/rules and the order shall be passed, after affording an opportunity of personal hearing to the petitioner, within a period of sixty days from the date of receipt of a copy of this order.”

9. From the above order, the following emerge (i.e) the appellate authority ought to be an independent authority, that the petitioner ought to be given an opportunity of personal hearing, that decision should be taken in accordance with law/rules and orders shall be passed within 60 days. Undisputably, the petitioner was granted an opportunity of hearing and he also submitted his written explanation. However, no orders were passed on the petitioner's appeal. Instead, the impugned orders appointing the enquiry and the presenting officer's were passed. In my considered view, this constitutes a clear violation of the order of this court. The explanation offered by the respondents



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that, under Rule 25(11) of the Conduct, Discipline & Appeal Rules, it was not

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incumbent to pass order's for conducting a denovo enquiry is untenable. In the factual matrix of the present case, I am of the considered opinion, that when a specific direction was issued by this court in the aforementioned writ petition to the appellate authority, to decide the matter in accordance with law/rules and to pass appropriate orders, it was incumbent on the appellate authority to pass a reasoned order either accepting or rejecting the petitioner's objection to the denovo enquiry. The failure to pass specific order in accordance with the directions of this court, in my view, amounts to violation of the court's order. The respondents, in their counter have admitted that in compliance of this courts directions, a Board of Director's meeting was held on 17.11.2021, which the petitioner attended. The petitioner submitted his representation against the conduct of denovo enquiry and after due deliberations the order dated 17.01.2020, directing a denovo enquiry, was upheld. However, the respondents were required to pass reasoned order indicating the grounds for rejecting the petitioner's representation. The contentions of the respondent's that this court



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had passed the order without taking into consideration Rule 25.10 and 25.11 of

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the Conduct, Discipline & Appeal Rules, 2009 and that the impugned order was merely based on the Board's decision confirming the denovo enquiry and thus it did not necessitate a separate order is untenable. When there exists a specific direction of this court to pass order, the respondents cannot circumvent such directions by attributing alternative justifications.

10. Rule 25.10 of the Conduct, Discipline & Appeal Rules, 2009 reads as follows:

*“25.10. **Decision of Disciplinary Authority:** After considering the findings of the Enquiry Officer and the records of the enquiry, the Disciplinary Authority shall take a decision depending on the facts, circumstances and merit of the case for the quantum of punishment as specified in Clause 23.2 of these Rules or for exoneration. The Disciplinary Authority will have the right to remit the case back to the Enquiry Officer for fresh or further enquiry for justified reasons to be recorded in writing. The Disciplinary Authority can also disagree with the findings,*



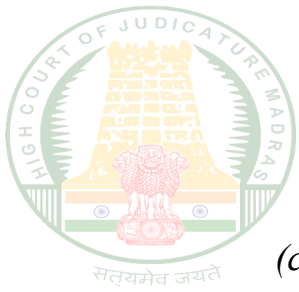
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record reasons thereof and record his own findings on the charges, if the evidence on record is sufficient for the purpose.

In the case of major penalty proceedings, a copy of the enquiry report may be given to the charge-sheeted employee to enable him to make such submission as he deems fit. This should be done within 10 days of receipt of the enquiry report. In cases where the Disciplinary Authority differs with the findings of the Enquiry Officer, the same should also be intimated to the charge-sheeted employee along with the copy of the enquiry report. The Disciplinary Authority shall take final decision in such cases, about the quantum of punishment only after considering the representation, if any, submitted by the charge-sheeted employee. The Disciplinary Authority may grant a personal hearing to the charge-sheeted employee, if he so desires, before a final decision is taken. The Disciplinary Authority may take a final decision within a month of receipt of the report.

PROVIDED that, in every case in which the charge of possession of assets disproportionate to known sources of income (clause 23.1.29) or the charge of acceptance from any person of any gratification other than legal remuneration



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(clause 23.1.30) as a motive or reward for doing or forbearing to do any official act or involvement in any act of terrorism (clause 23.1.31) or fraud (clause 23.1.26) or financial embezzlement (clause 23.1.29) is established, the penalty mentioned in clause 23.2.2 (e) shall be imposed.

Rule 25.11 of the Conduct, Discipline & Appeal Rules, 2009 reads as under-

“25.11 **De-novo Enquiry:** If the report of the Enquiry Officer is found not satisfactory, the Disciplinary Authority may order a *de novo* enquiry by the same or a different Enquiry Officer.”

Rule 25.11 of the Conduct, Discipline & Appeal Rules, 2009, stipulates that if the report of the enquiry officer is found unsatisfactory, the Disciplinary Authority may order a denovo enquiry by the same or different enquiry officer.

11. However, in my considered view Rule 25.11 cannot be interpreted in isolation and must necessarily be read in conjunction with Rule 25.10. Under Rule 25.10, the Disciplinary Authority though vested with a power to remit the matter to the enquiry officer for fresh or further enquiry can do so only by

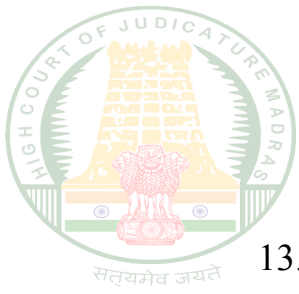


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recording in writing the reasons justifying such a course. Hence, even while invoking Rule 25.11 for initiating denovo enquiry, the Disciplinary Authority is bound to record cogent and justifiable reasons. It cannot be contended that no such reasons are required to be recorded while invoking the said rule.

12. The interpretation sought to be placed by the respondent's, if accepted, will result in conferring unfettered and unregulated discretion upon the respondents, enabling them to invoke the rule arbitrarily, thereby prejudicing the employees, such a construction would run contrary to the principles of natural justice. To prevent abuse of the unfettered discretion and to ensure procedural fairness, it is imperative to read the said principles into Rule 25.11. Doing so would harmonise the rule with the objective of balancing competing interests and ensuring justice. Consequently the contention of the respondents that no reasoned order is necessary for initiating denovo enquiry cannot be accepted.



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13. The further contention of the respondents that the petitioner having participated in 12 hearings in the denovo enquiry proceedings, is precluded from challenging the legality of the same is equally untenable. Mere participation in denovo enquiry proceedings does not amount to waiver or acquiescence. The petitioner is well within his rights to question the legality of the denovo enquiry. Useful reference in this regard can be made to the judgment reported in *2009 (5) MLJ 90*, wherein it was held “that mere fact that the petitioner did not protest against ordering a fresh enquiry and co-operated with the enquiry officer, the second respondent should not appointed the second enquiry officer without calling for an explanation from the petitioner”. Hence, the said contention of the respondents is rejected. In view of the above discussions, I am of the view that the impugned orders dated 14.02.2022 and 10.03.2022 are invalid and illegal and hence are set aside.

14. The petitioner has also filed a rejoinder to the counter affidavit, stating that he superannuated from service on 31.07.2024. The charge memo



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was issued on 15.09.2016, pertaining to alleged misconducts committed between 2011 and 2016. Nearly 9 years have lapsed since the incidents. In view of the inordinate delay and considering the illegality of the orders, I am of the considered view that it would be wholly unjust to further prolong the matter. Hence in the interest of justice and to mitigate the petitioner's continuing hardship, I am of the view that the matter need not be remanded.

Ergo, the writ petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.04.2025

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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N.MALA,J.

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To

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