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WA NO. 2838 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2025

CORAM

THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

WA NO. 2838 of 2021

and

W.A.No. 365 of 2017

K.Muthusamy
S/o. Kandasamy,

Appellant in both WAs

Vs

1. Tamil Nadu Water Supply And Drainage Board
Rep By Its Managing Director, TWAD House,
No.31, Kamarajar Salai, Chepauk,
Chennai - 600 005

2.State of Tamil Nadu,
Rep. By its Secretary,
Department of Municipal Administration and Water Supply,
For St.George,
Chennai -600009. ..Respondents in both WAs

Prayer in W.A.No.2838 of 2021 : Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order of this Court dated 23.03.2016 passed in W.P.No. 10941 of 2016.

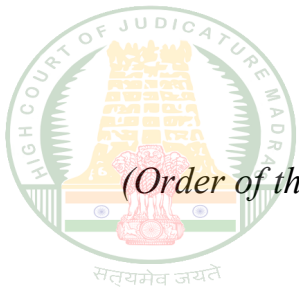
Prayer in W.A.No.365 of 2017 : Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order of this Court dated 17.10.2016 passed in Review Application No. 112 of 2016 in W.P.No. 10941 of 2016.

For Appellant:
(in both Appeals)

Mr.Kandhan Duraisami

For Respondents:
(in both Appeals)

Mr.S.Silambanan, Senior Counsel - R1
For M/s.S.Shahila Bhanu
Mr.C.Selvaraj, AGP -R2



COMMON JUDGMENT



(Order of the Court was made by the Hon'ble S.S.Sundar J.)

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The writ appeal in W.A.No.2838 of 2001 is directed against the order of the learned Single Judge in W.P.No. 10941 of 2016 dated 23.03.2016 and the writ appeal in W.A.No. 365 of 2017 is directed against the order of the learned Single Judge dismissing the Review Application No. 112 of 2016 in W.P.No. 10941 of 2016, dated 17.10.2016.

Brief facts that are necessary to dispose of these appeals are as follows;

2.1. The appellant joined as Junior Assistant in TWAD Board/ 1st respondent on 19.12.1975 and promoted as Assistant on 28.05.1981. Subsequently, he was also promoted as Junior Accounts Officer on 18.05.2006. A charge memo dated 20.09.2007 was issued under Regulation 9(c) of Tamil Nadu Water Supply and Drainage Board Employees (Discipline and Appeal) Regulations 1972, against the appellant, alleging poor collection of water charges during months of July 2007 and August 2007. The charges framed against the appellant read as follows;

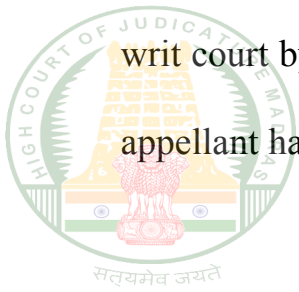
“That he has failed to take effective steps to collect the water charges as per demand and thereby committed misconduct under Regulation 69 (i) & 6(x) of TWAD Board Employees (Discipline and Appeal) Regulations, 1972.”



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2.2. In reply to the above charge memo, the appellant has submitted a detailed explanation dated 03.10.2007. However by the proceedings impugned dated 09.05.2008, the 1st respondent/Managing Director, TWAD Board issued a punishment order, stopping appellant's increment for one year. Challenging the same, the appellant filed an appeal before the appellate authority/2nd respondent on 19.06.2008 and the same was dismissed on 10.09.2011. Challenging the same, the appellant filed a review on 13.12.2011. Thereafter, by order dated 20.01.2016, the TWAD Board passed an order rejecting the review application filed by the appellant. Challenging i).the punishment order dated 09.05.2008 passed by the 2nd respondent, ii) the Bord Proceedings in B.P.Ms. No. 71, dated 10.09.2011 and iii). the subsequent order in B.P. Ms.No. 7 dated 20.01.2016, the appellant had filed a writ petition in W.P.No. 10941 of 2016.

2.3. The learned Single Judge dismissed the said writ petition on the ground that the appellant did not send official communication to the authorities concerned in writing and contacted over phone for payment of water charges due to the concerned local bodies and therefore, the charges against the appellant are made out. Challenging the same, the appellant filed a writ appeal in W.A.No. 2838 of 2021. The appellant has also filed an application under RTI on 15.06.2016 and obtained details by communication dated 03.08.2007, indicating that the delay in disbursement of funds to the local body. Based on this subsequent communication dated 03.08.2007, the appellant filed a review application



writ court by order dated 17.10.2016. Challenging the order in the review appli



appellant has preferred a writ appeal in W.A.No. 365 of 2017.

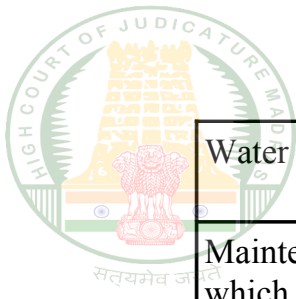
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3. Sum and substance, the learned counsel for the appellant submitted that as per the TWAD Board Account Manual, collection of water charges is not within the domain or control of the appellant. He has also pointed out that as per Board proceedings dated 28.07.2006, the Executive Engineer is responsible for collection of water charges. He also placed the Government order in G.O. (D) No. 455, Municipal Administration and Water Supply (WS1) Department, dated 08.11.2006. The relevant Clauses 4 & 5 of para 3 of the said G.O read as follows;

“4. The Executive Engineers of Maintenance Divisions and Sub Divisions may raise the demand on water supply charges to the concerned Local Bodies with the prevailing tariff rate. The collection of water charges may be monitored by the District Collector.

5. The water charges collected may be remitted by the Executive Engineers to TWAD Board. The Annual maintenance estimate for the combined Water Supply Schemes may be submitted to the Head Office. TWAD Board and sanctioned by Head Office.”

4. On the other hand, the respondents relied on the Board proceedings in B.P Ms. No. 77, dated 28.07.2006, wherein direction was issued to the officials of TWAD Board fixing responsibility on the field officials to collect the current water charges and part of arrears every month without fail and disciplinary action should be initiated against those who failed to do so. Further, targets are fixed for the Executive Engineers of divisions in charge of collection of Maintenance/Water charges, as mentioned below;



Water charges	100% of the Current Month Demand
Maintenance Charges/Water Charges which have fallen into arrears	20% of the outstanding charges as minimum.

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5. Learned counsel for the appellant relied on the communication received through Right to Information Act from the Deputy Block Development Officer (Admn), Office of the Assistant Director of Rural Development (Panchayats), Namakkal, wherein it is stated that the grants to the local bodies are paid monthly as per the financial position of the State. However, some times funds are paid once in two or three months also. It is also stated in the said communication that the grant for the month of August 2007 was received on 06.09.2007 and the same was released to the local bodies on 14.09.2007.

6. From the facts narrated above, this Court is unable find reason as to how the responsibility was fixed on the appellant as the appellant was worked only as Junior Accounts Officer in the TWAD Board. This Court is unable to find any material to fix the responsibility on the delay of payment of collection of water charges on the appellant. It is also relevant to mention that there is no alarming delay in collection. The small delay has been explained by the local body by stating that the delay was only due to non availability of funds. No other materials have been produced before this Court to fix responsibility on the appellant and make him liable for the charges framed against him.



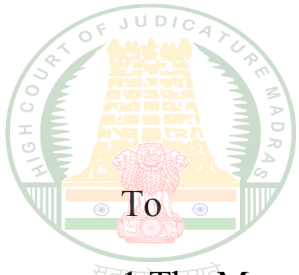
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7. The appellant now contends that he has reached the age of superannuation during the pendency of the proceedings. However, the appellant was on the verge of promotion just before his retirement, and due to this punishment, his promotion was stalled. In light of the discussions in the preceding paragraphs, this Court is convinced that the appellant is not guilty of the charges, and therefore, the charges framed against him and the punishment imposed are unsustainable. Accordingly, the order of the learned Single Judge in W.P.No. 10941 of 2010, dated 28.03.2016, is set aside, and the writ appeal in W.A.No. 2838 of 2021 is allowed. In view of allowing the writ appeal in W.A. 2838 of 2021, the writ appeal in W.A.No. 365 of 2017 stands closed.

8. The respondents are directed to disburse the monetary benefits to the appellant by giving notional promotion, if he is otherwise eligible, in accordance with law. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

(S.S.SUNDAR J.) (C.SARAVANAN J.)
06-03-2025

Index : Yes/No
Internt : Yes
Neutral Citation : Yes
ak



To

1. The Managing Director,
Tamil Nadu Water Supply And Drainage Board
Twad House, No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2. The Secretary,
Department Of Municipal Administration And Water Supply,
Fort St, George, Chennai - 600 009



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S.S.SUNDAR
and
C.SARAVANAN J.

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