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W.P No. 10841 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 10841 of 2015

and M.P.No. 1 of 2015

1. N. Ulaganathan (Died)
2.U.Jayalakshmi
3.Sathyabama
4.U.Gnanasekaran
5.U.Sabapathi
(P2 to P5 are substituted as LR's of
Deceased sole petitioner vide order dated
30.07.2025)

..Petitioners

Vs

1.The Chief Executive Officer,
Tamilnadu Khadi and Village Industries Board,
Kuralagam,
Chennai-108

2.The Joint Director,
Tamilnadu Khadi and Village Industries Board,
Kuralagam,
Chennai-108.

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the dated 02.03.2010 made in Na.Ka.No. 17526/E-4(1)/05 passed by the 1st respondent, order dated 16.08.2011 made in Khadi Board Proceedings Order No. 8 passed by the 2nd respondent on appeal, and the order dated 18.07.2014 made in Khadi Board Proceedings Order No. 51 passed by the 1st respondent on review, quash the same and consequently direct the respondents



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to disburse all the consequential service and monetary benefits to the petitioner and pass such further or other suitable orders.

For Petitioner : Mr. N. Manokaran

For Respondents : Mr.C.Rajakumar, Standing Counsel

ORDER

The challenge in this Writ Petition is to the order dated 02.03.2010 bearing Na.Ka.No.17526/E-4(1)/05 passed by the first respondent, and the order dated 16.08.2011 passed by the Tamil Nadu Khadi and Village Industries Board, Kuralagam, Chennai, as communicated by the Deputy Director (in charge) of the Board. By the said orders, the petitioner, while serving as a Khadi Inspector in the Thuraiyur Carpentry and Blacksmith Workers Industrial Co-operative Society, was removed from service.

2. The petitioner, while serving as a Khadi Inspector, was issued with a charge memo dated 27.05.1996, alleging misappropriation of funds belonging to the Society as well as the Board. The petitioner submitted his explanation denying all the charges. As the explanation was found to be unsatisfactory, an Enquiry Officer was appointed to enquire into the charges. After conducting the enquiry, the Enquiry Officer submitted a report holding that all the 13 charges framed against the petitioner stood proved. Upon receipt of the enquiry report and the further explanation submitted by the petitioner, the Disciplinary



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Authority held that the charges were proved and passed an order removing the petitioner from service.

3. The said order of removal was challenged before this Court in W.P. No.16277 of 2005. By order dated 13.11.2008, this Court set aside the order of removal and directed the first respondent to appoint either an Assistant Director or any other competent officer as Enquiry Officer and also to appoint a Presenting Officer to represent the Thuraiyur Carpentry and Blacksmith Workers Industrial Co-operative Society. This Court further observed that, though the registers were stated to have been produced during the enquiry proceedings, the documents had neither been marked nor had any witnesses been examined. Considering the number of charges levelled against the petitioner, this Court held that it was desirable for the Society to adduce both oral and documentary evidence.

4. Pursuant to the directions issued by this Court, Mr. S. Jayakumar, Assistant Director (Khadi and Village Industries), Trichy, was appointed as the Enquiry Officer to enquire into the charges framed against the petitioner. He was directed to conduct the enquiry strictly in accordance with the procedures laid down under the Tamil Nadu Khadi and Village Industries Board Service Regulations (Discipline and Appeal) Rules, by affording an opportunity to the petitioner to cross-examine witnesses, by marking relevant documents,



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examining witnesses, and to submit the enquiry report within a period of two months.

5. Thereafter, the Enquiry Officer conducted the enquiry and submitted a report holding that 12 out of 13 charges framed against the petitioner stood proved. Upon receipt of the second show-cause notice, the petitioner submitted a further explanation denying the charges. The first respondent/Disciplinary Authority, after considering the further explanation, passed an order removing the petitioner from service. Aggrieved by the said order, the petitioner preferred an appeal before the second respondent, as provided under Regulation 38 of the Tamil Nadu Khadi and Village Industries Board Service Regulations, 1956. The Appellate Authority confirmed the order of removal passed by the first respondent. Challenging the same, the present Writ Petition has been filed.

6. Mr. N. Manokaran, learned counsel appearing for the petitioner, submitted that despite the specific directions issued by this Court and the mandatory provisions contained in Regulation 34(1)(b) of the Service Regulations, 1956, the Society failed to appoint a Presenting Officer to lead evidence and mark documents in support of the charges. It was contended that the Enquiry Officer, without examining any Presenting Officer and without the Society marking documents or examining witnesses, improperly shifted the



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burden of proof on the petitioner and, based solely on the petitioner's explanation, submitted a report holding that the charges stood proved.

7. Learned counsel for the petitioner further submitted that the findings recorded by the Enquiry Officer are based on no evidence and are perverse and arbitrary. Consequently, the impugned order passed by the first respondent removing the petitioner from service is contrary to the provisions of Regulation 34(1)(b) of the Service Regulations, 1956, the directions issued by this Court, and the well-settled principles of law. It was contended that the impugned order is arbitrary, discriminatory, and violative of Article 14 of the Constitution of India. In support of his submissions, the learned counsel for the petitioner placed reliance on the following judgments;

- 1. *State of Uttar Pradesh Vs. Saroj Kumar Sinha* [(2010) 2 SCC 772]**
- 2. *Meenglas Das Tea Estate Vs. Workmen* [AIR 1963 SC 1719]**
- 3. *Roop Singh Negi Vs. Punjab National Bank* [(2009) 2 SCC 570]**
- 4. *Lt. Governor, Delhi & Others Vs. HC Narinder Singh* [(2004) 13 SCC 342]**



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5. **VM. Karunakaran Vs. Zamorin Raja of Calicut [MANU/KE/3925/2019]**

6. **K. Karuppa Pillai Vs. The State of Tamilnadu, Rep.by its Secretary to the Government [CDJ 2023 MHC 6308]**

7. **M.Rajapandian Vs. The Tamilnadu Khadi & Village Industries Board, Chennai [CDJ 2007 MHC 5216]**

8. **The Tamilnadu Khadi and Village Industries Board Vs. V.Rajapandian [W.A.(MD) No. 1209 of 2023]**

8. In response, the learned counsel appearing for respondents 1 and 2 submitted that the Enquiry Officer, after considering the documents submitted by the Society and recording the statement and explanation of the petitioner, had rightly held that the charges against the petitioner stood proved. It was further submitted that the petitioner did not produce any evidence to disprove the allegations levelled against him. Notwithstanding the issue relating to the appointment of a Presenting Officer or the evidence to be adduced, the materials available on record and the explanation offered by the petitioner clearly establish that he had misappropriated the funds of the Society as well as the Board. Therefore, the findings of the Enquiry Officer, the order of punishment of removal from service passed by the Disciplinary Authority, and the order of the Appellate Authority confirming the same do not warrant any interference by this Court. In support of his submissions, the learned counsel for the respondents placed reliance on the following decisions;



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1. The State of Rajasthan and Others Vs. Bhupendra Singh

[(2024) Supreme (SC) 648

2. Pravin Kumar Vs. Union of India and Others [(2020) Supreme (SC) 538]

3. S. Ramasundaramani Vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department (WP(MD) No. 19122 of 2018, dated 22.01.2025)

9. This Court has duly considered the submissions advanced by the learned counsel on either side and the materials placed on record.

10. This Court had earlier set aside the order of removal from service and directed the respondents to conduct a fresh enquiry after appointing an Enquiry Officer. Pursuant thereto, one Mr. S. Jayakumar, Assistant Director (Khadi and Village Industries), Trichy, was appointed as the Enquiry Officer to enquire into the charges framed against the petitioner. He was directed to conduct the enquiry strictly in accordance with the procedures laid down under the Tamil Nadu Khadi and Village Industries Board Service Regulations (Discipline and Appeal) Rules, by providing an opportunity to the delinquent employee to cross-examine witnesses, mark relevant documents, examine witnesses, and submit the enquiry report within a period of two months.

11. Pursuant to the said order, the Enquiry Officer conducted the enquiry and submitted the enquiry report. The enquiry report, which was originally in vernacular language, has been translated orally before this Court by the learned



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counsel for the parties and extracted in the impugned order passed by the Respondent No.1. The same clearly reveals that the Society neither appointed a Presenting Officer nor marked any documents to substantiate the allegations against the petitioner. The enquiry report further discloses that the Enquiry Officer merely recorded the charges, the explanation offered by the petitioner, and his own remarks. Solely on the basis of the explanation submitted by the petitioner, the Enquiry Officer concluded that the charges stood proved.

12. The burden squarely lay upon the Society to prove the charges against the petitioner by producing oral and documentary evidence through a duly appointed Presenting Officer. The allegation against the petitioner was one of misappropriation of funds, which necessarily required strict proof. However, no such course was adopted by the Society. The enquiry report was thus submitted in gross violation of Regulation 34(1)(b) of the Regulations, 1956, the directions issued by the appointing authority while appointing the Enquiry Officer, and the specific directions issued by this Court.

13. The petitioner had offered a plausible explanation denying the charges. However, in the absence of any cogent oral or documentary evidence produced by the Society to substantiate the allegations, the said explanation could not have been disbelieved.



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14. The Hon'ble Supreme Court, in *State of Uttar Pradesh and Others* (cited supra), has held that an Enquiry Officer, acting as a quasi-judicial authority, is required to function as an independent adjudicator and not as a representative of the department or disciplinary authority. His duty is to examine the evidence produced by the department and determine whether such evidence is sufficient to establish the charges, even in the absence of the delinquent official. In the present case, the said procedure has not been followed. No oral evidence was examined, and no documents were proved. Hence, the materials relied upon could not have been taken into consideration to hold that the charges were proved.

15. It was further held therein that not even a single witness had been examined in support of the charges. The High Court was therefore right in observing that the entire proceedings were vitiated, having been conducted in complete violation of the principles of natural justice and in total disregard of fair play.

16. It was further ruled that non-disclosure of documents having the potential to cause prejudice to a government servant in enquiry proceedings would amount to denial of a reasonable opportunity to submit a plausible and effective rebuttal to the charges levelled against him.



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17., In **Meenglas Tea Estate** (cited supra), the Hon'ble Apex Court held as follows:

“It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. He must then be given an opportunity to rebut the evidence led against him. This is the barest requirement of an enquiry of this character and must be substantially fulfilled before the result of the enquiry can be accepted.”

18. It was further held that such a travesty of the principles of natural justice justified rejection of the findings and a direction to prove the allegations afresh.

19. In **Roop Singh Negi** (cited supra), the Hon'ble Supreme Court held that the Enquiry Officer has a duty to arrive at findings based on materials properly brought on record. Documents collected during investigation cannot, by themselves, be treated as evidence in disciplinary proceedings unless proved through witnesses. Mere tendering of documents without proving their contents is insufficient.



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20. In *M. Rajapandian v. The Tamil Nadu Khadi and Village Industries Board [W.P. (MD) No.4683 of 2004, dated 17.09.2007]*, a Coordinate Bench of this Court, while interpreting Regulation 34(1)(b) of the Regulations, 1956, held that the Board failed to conduct a meaningful enquiry in accordance with statutory requirements, thereby vitiating the disciplinary proceedings.

21. The decisions relied upon by the learned counsel for the respondents are distinguishable on facts and are therefore inapplicable to the present case. Hence, reliance placed on the said decisions is misplaced.

22. The contention raised by the learned counsel for the respondents that the Board was not properly arrayed as a party is devoid of merit. The cause title reflects that the Board has been arrayed as the second respondent, though represented by the Joint Director instead of the Secretary. Mere mis-description or nomenclature will not vitiate the writ petition, especially when the challenge is directed against the order passed by the appellate authority. No prejudice has been caused to the respondents on this account, and the said contention is therefore rejected.

23. It is represented that the petitioner attained the age of superannuation on 30.11.2008 and subsequently died on 02.05.2025. The legal representatives



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of the deceased petitioner (petitioners 2 to 5 herein) are therefore entitled to pursue the claim in respect of the estate left behind by the petitioner.

24. In view of the foregoing discussion, this Court finds that the Society failed to discharge its burden of proving the charges against the petitioner by examining witnesses or marking documents through a Presenting Officer. Consequently, the enquiry report as well as the orders passed by the first and second respondents are in clear violation of Regulation 34(1)(b) of the Regulations, 1956, the directions issued by this Court, and the settled principles of law laid down by the Hon'ble Supreme Court. The impugned orders are therefore arbitrary, discriminatory, and liable to be set aside.

25. Accordingly, the following order is passed:

- (i) The writ petition is allowed.
- (ii) The impugned orders passed by the first and second respondents are hereby set aside.
- (iii) The respondents are directed to compute the entire pension and pensionary benefits to which the deceased petitioner is entitled and disburse the same to the legal representatives of the deceased petitioner within a period of four (4) months from the date of uploading of this order on the official website of this Court.



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(iv) Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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HEMANT CHANDANGOUDAR, J.

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