



WEB COPY

WP No. 22033 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No. 22033 of 2017

S.Kannan,
(CME Retd., Chennai Port Trust)
Megalai Plot No.11, M.P.T.Officers Colony,
Thirusoolam,
Chennai-43.

..Petitioner(s)

Vs

1. The Secretary
Govt. of India
Ministry of Shipping,
Transport Bhawan,
No.1, Parliament Street,
New Delhi-110 001.
2. The Under Secretary
Govt. of India
Ministry of Shipping,
Transport Bhawan, No.1,
Parliament Street,
New Delhi-110 001.
3. The Chairman
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

..Respondent(s)



PRAYER : Certiorarified Mandamus, to call for the records of the 1st Respondent in File C-14011/9/2004-vig. dated 04.10.2016 quash the same, thereby directing respondents not to deduct any amounts from pension of petitioner.

For Petitioner(s): Mr.N.C.Thirumalai Balaji

For Respondent(s): Ms.N.K.Nithilavani for R1 & R2
Mr. Arun Dhanapalan For R3

ORDER

The petitioner challenges the order dated 04.10.2016 passed by the first respondent. By the said order, the first respondent held that the charge against the petitioner was proved and imposed the penalty of withdrawal of 30% of the monthly pension otherwise admissible, for a period of five years.

2. The petitioner, while serving as Chief Mechanical Engineer in the third respondent Port, retired from service on attaining the age of superannuation on 30.06.2004. In the given circumstances, the petitioner was issued with a charge memo dated 16.09.2008, alleging that during the period from 21.06.2001 to 30.06.2004, he failed to maintain absolute integrity and devotion to duty inasmuch as he permitted M/s. Sesa Goa Ltd. to use the plot earlier allotted by the Chennai Port Trust, without any specific allotment order or agreement and without fixing the minimum guaranteed throughput, with an intention to cause



undue gain to M/s. Sesa Goa Ltd. The petitioner submitted his explanation to the show cause notice, denying the charge. However, the explanation was found to be unsatisfactory, necessitating initiation of disciplinary proceedings before the Inquiry Officer.

3. The petitioner took a specific defence that he had only followed the then existing procedure for allotment of plots after obtaining approval from the Chairman, Chennai Port Trust, and therefore no misconduct could be attributed to him. The Inquiry Officer, after recording the statements of the Presenting Officer and the delinquent officer, submitted a report holding that the charge against the petitioner was proved. Thereafter, the petitioner was issued a second show cause notice, to which he submitted his explanation. The first respondent, after considering the inquiry report and the further explanation of the petitioner, held that the charge against the petitioner was proved and accordingly imposed the penalty.

4. Learned counsel for the petitioner submitted that the petitioner had only followed the then existing procedure for allotment of plots by obtaining approval from the Chairman, Chennai Port Trust. He further submitted that since 1999, the petitioner's predecessors had permitted M/s. Sesa Goa Ltd. to use the plot without execution of any agreement and therefore no mala fides could be attributed to the petitioner. It was also contended that though the first respondent recorded that the petitioner had submitted his further explanation,



the same was neither considered nor rejected and no independent reasons were assigned for accepting the inquiry report. Hence, the impugned order of penalty is arbitrary, discriminatory, and not legally sustainable.

5. In response, learned counsel appearing for the respondents submitted that the findings recorded by the Inquiry Officer were based on cogent evidence and, in the absence of any perversity or arbitrariness, the same do not warrant interference. He further submitted that the first respondent, after duly considering the inquiry report as well as the further explanation submitted by the petitioner, had rightly passed the impugned order and therefore the same does not call for any interference.

6. The arguments advanced by the learned counsel on either side and the materials placed on record have been duly considered.

7. The petitioner retired from service on attaining the age of superannuation on 30.06.2004. The Central Bureau of Investigation registered a case against the petitioner and others and, upon completion of investigation, recommended initiation of disciplinary proceedings. Based on the said recommendation, departmental proceedings were initiated against the petitioner. The specific allegation against the petitioner was that during the period from 2001 to 2004, he permitted M/s. Sesa Goa Ltd. to use the plot without a formal allotment order or agreement.



8. The inquiry report categorically records that an initial allotment was made to M/s. Sesa Goa Ltd. for a period of three months from June to September 1997. A similar allotment was made for the period from January to March 1998, wherein a minimum guaranteed throughput of 81,000 MTS was fixed along with a compensation clause for shortfall. Document M-6, produced before the Inquiry Officer, is a copy of the agreement dated 23.12.1998 for allotment of the C2 plot to M/s. Sesa Goa Ltd. for the period from 10.07.1998 to 09.07.1999. Document M-7 pertains to the allotment from 10.07.1998 for an initial period of six months. Documents M-8 and M-9 are copies of allotment orders dated 16.07.2005, allotting the C2 plot to M/s. Sesa Goa Ltd. for a period of nine months from 01.07.2005 to 31.03.2006. The petitioner also produced several documents in the form of note files prepared by the third respondent Trust.

9. Before the Inquiry Officer, M.W.1 was cross-examined by the petitioner, during which he admitted that there were no policy guidelines governing iron ore handling at present, as iron ore was no longer being handled at the Port. He further admitted that it was the initial practice of the third respondent to enter into agreements for allotment of space and compliance with minimum guaranteed throughput.

10. The petitioner examined one V.S. Ranganathan, former Chief Mechanical Engineer, as D.W.1, who deposed that there were no regulations



requiring fixation of minimum guaranteed throughput before permitting private exporters and that during his tenure, he had obtained special sanction from the Chairman for entering into agreements specifying minimum guaranteed throughput. He further stated that once agreements were entered into, they could not be renewed, as the private exporters had proved their performance and were treated on par with MMTC, which had been issued valid allotment orders. According to him, the normal procedure of first-come-first-served was followed and the spaces were treated as common user facilities, where no special privilege was given and no minimum guaranteed throughput was insisted upon.

11. During cross-examination, when questioned about the year in which special sanction was obtained from the Chairman, D.W.1 stated that to the best of his memory, it was during 1998–1999. However, though the delinquent officer was permitted to peruse the relevant files and records in the CME's department, no documentary evidence was produced to substantiate the said statement.

12. The Inquiry Officer concluded that the statements of D.W.1 were inconsistent. After considering the evidence of M.W.1, D.W.1, and the defence put forth by the petitioner, the Inquiry Officer held that the charge against the petitioner was proved.



13. The order of penalty passed by the first respondent indicates that the representation submitted by the petitioner was considered on the basis of comments obtained from the Chennai Port Trust and that no merit was found in the issues raised by the petitioner. It further states that the matter was examined at various stages by the competent authority in accordance with the applicable rules and regulations.

14. 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 authority 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.

15. In the instant case, the first respondent, without assigning reasons, accepted the inquiry report and held that the charge against the petitioner was proved. Such action is in violation of the principles of natural justice and also violative of Article 14 of the Constitution of India. In any event, the petitioner had only followed the existing procedure for allotment of plots to M/s. Sesa Goa Ltd. with the approval of the Chairman of the third respondent Port, and therefore no mala fides can be attributed to the petitioner.



16. The internal note of the third respondent containing para-wise remarks furnished to the Central Bureau of Investigation discloses that from 2000 to 2001, the petitioner was holding the post of Superintending Engineer (Marine) and during that period he was not connected with matters relating to allotment of plots. The remarks further indicate that the petitioner assumed charge as Chief Mechanical Engineer only in April 2001 and that he followed the then existing procedure for allotment of plots after obtaining approval from the Chairman, Chennai Port Trust, without execution of agreements for minimum guaranteed throughput. Hence, the charge against the petitioner is not substantiated.

17. The para-wise remarks further indicate that wharfage charges for shortfall in minimum guaranteed throughput for periods up to 1999, when agreements were in force, have since been recovered from the firms concerned. Further, the matter was taken up with the said firms, in the light of the investigating authority's remarks, for payment of shortfall quantities for the period from 2001 till June 2005. In view of the above, it is evident that the petitioner acted in discharge of his official duties and responsibilities and without any mala fide intention.

18. In view of the foregoing discussion, this Court is of the considered opinion that no mala fides can be attributed to the petitioner in permitting M/s.



Sesa Goa Ltd. to use the plot without execution of a formal agreement, as the petitioner had only followed the procedure in existence since 1997 and such allotment had been ratified by the Chairman, Chennai Port Trust. Therefore, the impugned order of punishment is not legally sustainable.

19. Accordingly, the Writ Petition is allowed and the impugned order dated 04.10.2016 passed by the first respondent is hereby quashed. The respondents are directed to release the 30% of the monthly pension withheld from the petitioner for a period of five years, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected W.M.P. No.23082 of 2017 is closed.

30-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

DIXIT



To

1. The Secretary
Govt. of India Ministry of Shipping,
Transport Bhawan, No.1, Parliament Street,
New Delhi-110 001.
2. The Under Secretary
Govt. of India Ministry of Shipping,
Transport Bhawan, No.1, Parliament Street,
New Delhi-110 001.
3. The Chairman
Chennai Port Trust, Rajaji Salai,
Chennai-600 001.



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HEMANT CHANDANGOUDAR, J.

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