

(2011) 02 MAD CK 0130
In the Madras High Court
Case No : Writ Petition No. 27253 of 2005

K. Babu

APPELLANT

Vs

Assistant Director, Khadi and Village Industries Board, Chief
Executive Officer, Tamil Nadu Khadi and Village Industries
Board and The Secretary, Department of Handlooms,
Khadicraft, Textiles and Khadi, Government of Tamil Nadu

RESPONDENT

Date of Decision : 02-02-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Khadi and Village Board Service Regulations — Regulation 34

Citation : (2011) 02 MAD CK 0130

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : A. Immanuel, for the Appellant; S. Sivashanmugam, G.A. for R1 and
R3 and S. Packiaraj, for R2, for the Respondent

Final Decision : Dismissed

Judgement

T. Raja, J.—The Petitioner has filed the present writ petition challenging the order of removal passed against him by the 2nd Respondent in

Rc. No. 35057/2000/E3(1), dated 05.08.2002, as confirmed by the 3rd Respondent in G.O.[D]No. 110, Handlooms, Khadicraft, Textiles &

Khadi Department (F1), dated 23.09.2004.

2. The Petitioner, while serving as a Bee Field man Grade - I, unfortunately, he was issued with a charge memo alleging that he has

misappropriated the funds belonging to the Respondents department. On receipt of the charge memo, the Petitioner has submitted his detailed

explanations denying all the charges. Subsequently, the enquiry officer found him guilty on all the charges leveled against the Petitioner. Thereafter,

the same was submitted before the disciplinary authority, who in turn, on receipt of the enquiry report submitted by the enquiry officer, issued the second show cause notice calling upon the Petitioner to submit his further explanations to the report filed by the enquiry officer. Subsequently, the Petitioner has submitted his further explanations requesting the disciplinary authority to drop the charges and also not rely upon the report of the enquiry officer. The disciplinary authority/the 2nd Respondent herein, finally, accepting the report of the enquiry officer, imposed the punishment of removal from service, for the reason that he has misappropriated the funds belonging to the Respondents department. Aggrieved by the said order, the Petitioner has preferred an appeal before the 3rd Respondent, who, in turn, on considering the case of the Petitioner as well as the Respondent, confirmed the order of the removal for the reason that the Petitioner has committed serious irregularities by misappropriating the funds of the Respondents department. Aggrieved by the said order, the Petitioner has filed the present writ petition.

3. Heard the learned Counsel appearing on either side and perused the materials available on record.

4. It is an admitted fact that when the Petitioner was working as a Bee Field man Grade - I, he was issued with a charge memo under Regulation

34(b) of the Tamil Nadu Khadi and Village Board Service Regulations, on 15.05.2000 containing multiple charges alleging misappropriation of the

funds belonging to the Respondents department. The enquiry officer has also found him guilty of all the charges leveled against him. After the

completion of the enquiry, on submission of the enquiry report, the Petitioner was also issued with second show cause notice calling upon him to

submit his further representation and accordingly, the Petitioner has submitted his further representation requesting the disciplinary authority not to

rely upon the report of the enquiry officer. Disagreeing with the further representation filed by the Petitioner, the disciplinary authority finally

accepting the report submitted by the enquiry officer, passed an order of removal from service. Aggrieved by the said order, when an appeal was

filed, the 3rd Respondent, again, by considering the entire documentary evidence, confirmed the order passed by the 2nd Respondent.

5. The learned Counsel appearing for the Petitioner wanted this Court to re-appreciate the evidence produced before the enquiry officer to say

that some of the charges are temporarily misappropriation and rest of them are permanent misappropriation. While so, in respect of the temporary misappropriation, though the Petitioner has subsequently repaid the money, without taking into account the subsequent repayment by the Petitioner, an order of removal was passed against the Petitioner. Therefore, he has requested this Court to look into the evidence adduced before the enquiry officer.

6. It is settled legal position that the writ Court, sitting under Article 226 of the Constitution of India, cannot re-appreciate the evidence adduced before the enquiry officer. While so, when the various evidences both documentary and oral were considered by the enquiry officer and again, the disciplinary has also, by relying upon the report as well as the evidence analysed by the enquiry officer, passed an order of removal, the same was also further confirmed by the appellate authority. Therefore, the submission made by the learned Counsel for the Petitioner to re-appreciate the evidence, cannot be considered, as it has been repeatedly held by this Court as well as Apex Court in a Catena of cases that the Courts, sitting under Article 226 of the Constitution of India, shall not normally interfere with the quantum of punishment unless the same is shown to be shockingly disproportionate or perverse to the charges leveled against the Petitioner. In the present case, when the Petitioner was found guilty for the misappropriation of the funds belonging the Respondents department, the order of removal, which was confirmed by the appellate authority, does not warrant any interference by this Court.

Accordingly, the present writ petition is liable to be dismissed and the same is dismissed. No Costs.