

(2011) 09 MAD CK 0209

In the Madras High Court

Case No : Writ Petition No. 11658 of 2009 and M.P. No. 2 of 2009

K. Viruthagiri

APPELLANT

Vs

Tamil Nadu Civil Supplies Corporation Ltd.

RESPONDENT

Date of Decision : 21-09-2011

Acts Referred:

Citation : (2011) 09 MAD CK 0209

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : K.M. Ramesh, for the Appellant; V. Selvanayagam, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice K. Chandru

1. The Petitioner has filed the present writ petition, seeking to challenge an order dated 16.06.2003 passed by the third Respondent viz., Manager, (Purchase and Operation) as well as the order of the second Respondent viz., the Senior Regional Manager, Cuddalore dated 29.02.2008 confirming the said order and the further order passed by the first Respondent viz., Managing Director to Tamil Nadu Civil Supplies Corporation Ltd., dated 04.05.2009 and after setting aside the same seeks for a direction to release the sum of Rs. 38,182.70 together with interest.

2. The writ petition was admitted on 29.06.2009. Pending the writ petition, this Court granted an interim stay. On notice from this Court, the Respondents have filed a counter affidavit dated 26.08.2011.

3. The facts leading to the filing of the case are as follows:

The Petitioner was working an employee of the Respondent Tamil Nadu Civil Supplies Corporation at their 3 Modern Rice Mill at Neyveli. He was transferred and posted as Bill Clerk at the Direct Purchase Centre (DPC), Vennaiyur to

purchase paddy from the Ryots. He was in the said post from 01.11.1992 to 20.04.1993 and was also procuring paddy in the DPC and thereafter, moved the stocks to the storage points.

4. It was found that during the purchase and transfer to the storage points, in respect of paddy (Superfine variety), there was a shortage of 8.559 Metric Tons and in respect of paddy (Common variety), there was a shortage of 10.208 Metric Tons. For the shortages noticed in the internal movement of paddy, a show cause notice was issued to the Petitioner by the Purchase Officer on 31.03.1993 for the the value of shortage noticed viz., Rs. 3768.70 for the month of February 1993 only. After completion of procurement work and verification of the entire account, the final figure was arrived at Rs. 51,526.80 and a further show cause notice was issued on 15.11.1993.

5. In the meanwhile, the Petitioner filed a writ petition before this Court challenging the order dated 16.06.2003 and at that time, since the appeal was pending before the second Respondent, he was directed to dispose of the appeal. Thereafter, the second Respondent by an order dated 29.02.2008 dismissed the appeal and made a revised calculation and also gave discount of 25% towards the storage loss and loss was arrived at Rs. 38,182.70. The Petitioner sent a further appeal to the first Respondent dated 20.03.2008. The grounds raised by the Petitioner was that for the storage loss, already sufficient amount have been collected from the agriculturists since the loss was less than the amount permitted by the headquarters. Since the paddy procured were kept in the open storage place for several months, he requested the first Respondent to regularise the loss and since he had already retired from service on 31.03.2004 he may be given all the terminal benefits. But however, the first Respondent by an order dated 04.05.2009 held that no grade cut has been collected from the farmers and no norms for paddy was fixed by the Head Office letter dated 12.11.1998. He found that paddy stocks procured from the Vennaiyur, DPC was moved to the storage points within the period of one month and therefore, the contention of the Petitioner that the paddy was kept in open space for several months was not accepted. In that view of the matter, his appeal was rejected.

6. The contention of the Petitioner was that no opportunity was given to the Petitioner, no full-fledged enquiry was conducted and no witness was examined and the recovery will cause civil consequences. The contentions raised by the Petitioner were denied by the Respondents. It was stated that the Petitioner was given a show cause notice and after getting his reply, it was examined in accordance with the records and therefore, he cannot find fault with the procedure. The recovery of loss caused to the Corporation is only listed as a minor penalty and for which no full-fledged enquiry is contemplated. Further, the Petitioner had the benefit of two appeals before the second and third Respondents. The contentions raised were squarely answered by the Respondents.

7. Mr. K.M. Ramesh, learned counsel for the Petitioner placed reliance upon the

judgment of this Court in S. Vijayaraghavan v. Tamil Nadu Civil Supplies Corporation Ltd. (by its Managing Director), Madras and Another reported in 1992 1 L.L.N. 586 in support of his submissions. In that case, this Court while upholding the power to direct recovery of loss only took exception that in that case recovery was ordered without fixing the responsibility for the loss. Such is not the case in the present circumstances. The Petitioner is well aware of the rules and procedure in the matter relating to procurement of paddy and their transmission to the storage point and that the resultant loss subject to the discount has to be met by the person in charge of such procurement. The Petitioner's objection regarding the headquarters' circular not being adhered to and that the paddy was kept in open place for several years were rejected by the first Respondent Managing Director by giving cogent reasons.

8. In the light of the above, no case is made out by the Petitioner. Accordingly, the writ petition stands dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.