

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/06/2003

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THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.6404 OF 1999

M. Doraisamy .. Petitioner

-Vs-

1. State of Tamil Nadu,
rep. by Secretary to Govt.,
Handloom, Handicrafts, Textiles &
Khadi Department,
Fort St. George, Chennai 9.

2. Tamil Nadu Khadi & Village
Industries Board, rep. by
its Chief Executive Officer,
Kuralagam Buildings,
Esplanade, Chennai 108. .. Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.V. Iyyathurai for
Mr.C. Jaganathan

For Respondent-1 : Mrs.N.G. Kalaiselvi
Special Govt. Pleader

Respondent-2 : Mr.B. Dinesh Kumar

:J U D G M E N T

The petitioner was serving under the Khadi & village
Industries Board, the second respondent. A departmental proceeding was
initiated against the petitioner in March, 1989 and an order was passed on
31.7.1989 directing recovery of Rs.6,27,521/-. The petitioner filed WP.
No.12160 of 1989. By order dated 1.2.1990, the said writ petition was allowed
and the order dated 31.7.1989 was quashed solely on the ground that reasonable
opportunity has not been given to the petitioner and principles of natural
justice had been violated. Thereafter the Chief Executive Officer of Tamil
Nadu Khadi & Village Industries Board passed final order dated 29.9.1985 in
Rc.No.50689/E3(2)/88 terminating the petitioner from service. As against the

said order, the petitioner filed appeal before the Commissioner and the Special Secretary to the Government raising various contentions. By a laconic order dated 8.2.1999 passed by the Secretary to the Government, such appeal has been dismissed. A perusal of said order, which has been translated in English, indicates that apart from narrating the brief history, no reason has been given by the respondent No.1, except stating that no new grounds had been raised in the appeal.

2. In the present writ petition, various contentions had been advanced challenging the order passed by the respondents 1 & 2 including the ground that the appellate authority has mechanically dismissed the appeal without giving any reasons for the same.

3. The right of filing appeal is statutory in nature. In the absence of any limitation in the statutory provision providing for filing of appeal, the jurisdiction of the appellate authority is as wide as that of the original authority and the appellate authority has the jurisdiction as well as the duty to consider the entire matter afresh in accordance with law on the basis of the materials on record. The appellate authority even in a departmental proceeding has to state the reasons for the conclusions arrived at by it.

4. In the present case, as already indicated, excepting stating that no new grounds have been raised, no other reason has been given. Even the contentions raised by the petitioner in the appeal memo have not been noticed nor any specific reason has been given for not accepting any particular contention. Since the first respondent has not given any reason for the conclusions reached by him, such an order cannot be sustained and it is hereby quashed. The appellate authority is required to consider the grounds taken by the petitioner in the appeal memo and to give specific reasons in one way or the other. The matter has to be dealt with in accordance with law afresh as early as possible, preferably within a period of six months from the date of communication of the present order. If any fresh contention is raised by the petitioner by filing additional memo/petition within a period of three weeks from to-day, such contention should also be considered in accordance with law by the appellate authority.

5. Subject to the above observations, the writ petition is allowed. No costs.

Index : Yes

Internet : Yes

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To

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