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W.P.No.28780 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.28780 of 2012
and M.P.No.2 of 2012

T.Natarajan

... Petitioner

Vs.

1.M/s.Neyveli Lignite Corporation Ltd.,
Rep., by its Chairman,
Block No.1, Mines Corporate Office,
Neyveli Town Ship, Neyveli – 607 801.

2.The Chief General Manager, Mine-II & Expn,
Neyveli Lignite Corporation Ltd.,
Neyveli – 607 802.

3.The DCE/Safety Dn./Mine-II,
Disciplinary Authority,
Neyveli Lignite Corporation Ltd.,
Neyveli Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari relating to the order of the second respondent herein in order dated 30.08.2011 in Memo.No.M-II/HR/DA CELL/552/948/2011 and order dated 27.09.2012 in Memo.No.M-II/HR/DA

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Cell/552/948/2011 and quash the same.

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For Petitioner : Mr.L.Palani Muthu

For Respondents : Mr.N.A.K.Sarma

ORDER

The petitioner has filed this writ petition to call records of the second respondent herein in order dated 30.08.2011 in Memo.No.M-II/HR/DA CELL/552/948/2011 and order dated 27.09.2012 in Memo.No.M-II/HR/DA Cell/552/948/2011 and quash the same.

2. The case of the petitioner is that the petitioner has joined the Neyveli Lignite Corporation (For brevity NLC) as IW-Gr.II on 28.07.1980 and was promoted as Operator Gr.IV and Mining mate. At the time of his joining, he did not avail any reservation benefits and his appointment was not under any reserved category. The NLC also did not seek any details about his caste or community at the time of appointment.

2.1. The mother of the petitioner viz., Pitchaiammal, who was the first wife of his father namely Thangavel has died when the petitioner was child and thereafter, the petitioner's father has married one Flora as second wife,



who belongs to Vanniyar Caste. While admitting the petitioner in the elementary school, the said Flora given the caste of the petitioner as Vanniyar, but the father of the petitioner belongs to Udayar community and the petitioner was not aware about the same. After completing his education, he got the job in NLC as stated supra.

2.2. On 04.06.2011, the second respondent herein issued a letter calling upon the petitioner to furnish his caste details and for the same, the petitioner has sent a reply on 11.06.2011. Subsequently, a charge memo dated 05.07.2011 was issued to the petitioner alleging that a complaint has been recorded and on enquiry, it was found that there is a discrepancy in regard to the caste details and that it was seen that the petitioner does not belongs to Vanniyar but Udayar. Further, the petitioner refused to give correct details as to his caste and that it was an act of indiscipline and irresponsiveness. Thereafter, the petitioner by letter dated 19.07.2011 submitted the fact that his step mother Flora alone had given his caste as vanniyar and there is no discrepancy in details and he has not obtained employment under any quota.

2.3. This being so, the Enquiry Officer held that the charges are proved



beyond doubt. The third respondent/disciplinary authority by letter dated 06.01.2012 issued a show cause notice proposing to impose a punishment of withholding increment for a period of one year without cumulative effect and directed the petitioner to submit an explanation. Subsequently, the petitioner has given his explanation stating that he never misrepresented and claimed that he belongs to Vanniyar community to get an employment and that it cannot be inferred that there was a discrepancy. Even according to his claim with regard to his caste, the petitioner submitted that when his appointment was not based on any reservation, the show cause notice itself is without jurisdiction and it ought not to be pursued. However, the third respondent/Disciplinary Authority by proceedings dated 30.08.2012 imposed the punishment of withholding of one increment for a period of six months without cumulative effect.

2.4. Challenging the aforesaid order dated 30.08.2012, the petitioner has preferred an appeal before the second respondent, however, the same was confirmed by the second respondent by its order dated 27.09.2012. Aggrieved over by the order passed by the second and third respondent dated 30.08.2012 and 27.09.2012, the petitioner has come forward with the present



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writ petition.

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3. Learned counsel for the petitioner submitted that the petitioner has joined the service of NLC only in general category and as such since his caste is not necessary, he had submitted his reply to the employer and the same does not amount to refusal to furnish information. Further, in his reply dated 11.06.2011, he has clearly submitted that since he had joined service under general quota, the information with regard to caste may not be necessary.

4. Learned counsel for the petitioner would further submit that the order passed by the third respondent/Disciplinary Authority is without any application of mind and the Disciplinary Authority has mechanically confirmed the findings of the Enquiry Officer and had imposed the punishment on the petitioner. The second respondent/Appellant Authority had also mechanically confirmed the findings of the Disciplinary Authority without any application of mind and without any independent findings on the ground raised by the petitioner in the appeal.



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5. Learned counsel for the petitioner would further submit that the respondents ought to have seen that the complaint based on which the information were called for has not been furnished to the petitioner and the complainant had also not been examined and under such circumstances, the enquiry is liable to be set aside on the principle of violation of natural justice.

6. The counter affidavit was filed on behalf of the respondents on 31.05.2013. Learned counsel appearing for the respondents submitted that an issue arose as to the correct community/caste status of the petitioner since it was reported that he actually belonged to Udayar community but had been describing himself as “Vanniyar”. In a vigilance enquiry, he was asked to submit a details of his community/caste status. But he prevaricated and refused to furnish such particulars on the plea that he had not been appointed against a reserved vacancy. The petitioner was called upon through a communication Lr.No.MII/P&A/REI-3/552/2010, dated 27.09.2010 to furnish the details in writing regarding his community/caste status, so that the same could be appropriately incorporated in the relevant service records. As the petitioner failed to respond to the communication of the corporation, by another communication dated 04.06.2011, the petitioner was called upon to



submit details along with proof. In response, the petitioner instead of complying with the request, submitted an unsatisfactory evasive reply dated 11.06.2011 stating that at the time of entry into service he had submitted all details for the purpose of making entries in the service record and that he had been appointed as general category candidate and did not avail any reservation benefit and as a result as per petitioner, there was not requirement to record the community/caste status of the petitioner.

7. Learned counsel appearing for the respondents would further submit that the refusal of the petitioner to give the correct details about his community/caste status constituted misconduct under Rule-26 (x), (xvii) and (xxxii) of NLC Employees' (conduct) Rules. Accordingly, a charge memo dated 05.07.2011 was issued to the petitioner. In response, the petitioner has submitted an evasive and unsatisfactory explanation dated 19.07.2011. As the Disciplinary Authority was dissatisfied with the explanation, a departmental enquiry ensued. Therefore, the respondents have appointed one Shri.L.Subba Rao, an officer of the corporation as Enquiry Officer to enquire into the charges.



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8. Learned counsel appearing for the respondents would further submit that the petitioner has participated in the departmental enquiry and defended himself. Though the petitioner was permitted to engage a defense assistant, he did not avail the opportunity. The principles of natural justice was adhered to. During the enquiry on 26.09.2011, the petitioner himself admitted all the charges and he produced his SSLC certificate which showed his communal status as “Vanniyar”. To a specific query of the enquiry officer, the petitioner admitted the charge and subscribed his signature to the enquiry proceedings dated 26.09.2011. As a result, there was no necessity for the corporation to adduce evidence in support of the charges. Realizing the mistake on his part and understanding the scope of the disciplinary action, the petitioner, though initially denied the charges, in the course of enquiry admitted the charges relating to his refusal to furnish the information as to his communal status and furnished his SSLC certificate as the proof for his caste. In the given circumstances, enquiry officer closed the enquiry on 26.09.2011 and the same was duly endorsed by the petitioner without any protest.

9. Learned counsel appearing for the respondents would further submit that the Enquiry Officer submitted the enquiry report dated 29.09.2011. The



Disciplinary Authority on consideration of the materials on record and the Enquiry Report, issued Provisional Show Cause Notice dated 06.01.2012 enclosing a copy of the Enquiry Report dated 29.09.2011 and called upon the petitioner to show cause as to why proposed minor punishment of “Withholding of increment for the period of one year without cumulative effect” shall not be imposed. In response, the petitioner submitted an explanation dated 25.01.2012 to the General Manager/HR/Mine-II instead of the Disciplinary Authority. As a result, by communication dated 09.05.2012, the petitioner was directed to submit his explanation to the Disciplinary authority which he did by letter dated 12.05.2012 to the Disciplinary Authority. The explanation was untenable and he contradicted his earlier admissions of the charges at the domestic enquiry held on 26.09.2011.

10. Learned counsel appearing for the respondents would further submit that the Disciplinary Authority on consideration of entire material on record, enquiry report, explanations of the petitioner and the past records of the petitioner, awarded the punishment of “Withholding of one increment for a period of six months without cumulative effect” by impugned order dated 30.08.2012 indicating that an appeal would lie to the Chief Manager/Safety



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Dn./Mine-II within 14 days of receipt of the order. The Disciplinary Authority reduced the gravity of the punishment while passing final orders.

The appeal preferred by the petitioner, challenging the order of the Disciplinary Authority dated 30.08.2012 was also rejected by the Appellate Authority on 27.09.2012. Hence, there is no illegality or infirmity in the impugned orders of the Disciplinary Authority and the Appellate Authority.

11. Heard the learned counsel on either side and perused the materials available on record.

12. In the case on hand, the petitioner's father belongs to Udayar community and after the demise of his first wife viz., Pitchaiammal, who was the mother of the petitioner, the petitioner's father married one Flora as second wife, who belongs to Vanniyar community. While admitting the petitioner in the elementary school, the said Flora given the caste of the petitioner as Vanniyar, since she belongs to the said community. Thus, the SSLC certificate of the petitioner, which was issued in the year 1977 has also reflects the caste as “MBC-Vanniyar”. Thereafter, the issue arose as to the correct community/caste status of the petitioner since it was reported that he



actually belongs to Udayar community but had been describing himself as “Vanniyar”. After completing his education, he got the job in NLC.

13. It is also an admitted fact that the petitioner was appointed in a general category and not based on any reservation. The respondents by its communication dated 04.06.2011, called upon the petitioner to submit the details along with proof. In response, the petitioner instead of complying with the request, submitted an unsatisfactory evasive reply dated 11.06.2011. The refusal of the petitioner to give the correct details about his community/caste status constituted misconduct under Rule-26 (x), (xvii) and (xxxii) of NLC Employees' (conduct) Rules. Accordingly, a charge memo dated 05.07.2011 was issued to the petitioner for the following misconduct:

A complaint has been received and based on that an enquiry was made and it was found that there has been a discrepancy on the caste details in respect of Shri.T.Natarajan, (CPF No.25041) Chief Mining Mate/Safety Dn./Mine-II, since his caste details was not “Vanniar” under MBC, but “Udayar” under BC.

As there was no entry as to his communal status in the Service Book, Shri.T.Natarajan (CPF No.25041) chief Mining Mate/Safety Dn./Mine-II was called details regarding his caste in writing for making necessary entries in the Service Register vide Letter dated 04.06.2011. Shri.T.Natarajan, Chief Mining Mate, has



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made a reply vide letter dated 11.06.2011 in which it was informed by him as he had already furnished all the relevant documents at the time of opening of his Service Book. It was also mentioned by him that he has not enjoyed any “Quota” under MBC and he has joined in NLC on 28.07.1980 under general quota only and there is no necessity which arises now, requiring him to spell out to which caste he belongs to. Even after repeated letters issued, Shri.T.Natarajan has refused to give correct details about his caste.

14. In regard to the above charge, an enquiry was conducted on 26.09.2011 and the enquiry officer held that the charges are proved and the same was closed on the same date, which was also duly endorsed by the petitioner without any protest. Thereafter, the enquiry report dated 29.09.2011 was submitted by the enquiry officer and based on the enquiry report, the Disciplinary Authority on consideration of the materials on record and the enquiry report issued the impugned order dated 30.08.2012 by “withholding of increment for a period of six months without cumulative effect dated 30.08.2012”.

15. In the course of the enquiry proceedings also the petitioner has



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stated that while searching in his house, he found the SSLC Certificate, in which his community is mentioned as Vanniyar and he has also admitted his mistake, however, he cannot submit the same before the respondents immediately. He has also further stated that he agreed with a charge memo that he has not produced his caste certificate immediately.

16. It is pertinent to extract the explanation given by the petitioner dated 25.11.2012 to the provisional show cause notice and the same reads as follows:

“7. நான் சார்ஜ் விசாரணையில் எனது எஸ்.சி.எல்.சி புக்கில் ஜாதி வன்னியர் என உள்ளது என்றுதான் குறிப்பிட்டேன். சொன்னேன். இதனை மட்டும் வைத்துக்கொண்டு என்பேரில் கூறப்பட்ட குற்றசாட்டை நான் என்று வரும் அளவுக்கு நான் ஒப்புக்கொண்டாக கருதி இயலாது. அவ்வாறு முடிவுக்கு வரும்வகைக்கு நான் எதையும் ஒப்புக்கொள்ளவில்லை.”

17. The petitioner was called upon through a communication Lr.No.MII/P&A/REI-3/552/2010, dated 27.09.2010 to furnish the details in writing regarding his community/caste status, but the petitioner has failed to



respond to the communication of the corporation. Moreover, another communication dated 04.06.2011 was sent to the petitioner to submit the details of his community/caste status along with proof. In response, the petitioner instead of complying with the request, submitted an unsatisfactory evasive reply dated 11.06.2011 stating that at the time of entry into service he had submitted all details for the purpose of making entries in the service record and that he had been appointed as general category candidate and did not avail any reservation benefit. **Hence, the refusal of the petitioner to give the correct details about his community/caste status constituted misconduct under Rule-26 (x), (xvii) and (xxxii) of NLC Employees' (conduct) Rules.**

18. It is the duty of the petitioner to furnish any details or information regarding his community/caste status or any other details in regard to his service to the employer along with the proof as and when required without any delay. But, in this case, despite two communications dated 27.09.2010 and 04.06.2011, the petitioner has failed to furnish the details. Hence, the charge memo dated 05.07.2011 was issued to the petitioner since the conduct of the petitioner constituted



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a misconduct under the above rule of NLC.

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19. The punishment imposed by the respondents was only a minor punishment of “withholding of one increment for a period of six months without cumulative effect”, which was imposed only for the reason that in the course of enquiry, the petitioner has admitted the charges relating to his refusal to furnish the information as to his communal status to the respondent corporation.

20. In view of the above factual matrix of the case, the orders passed by the second respondent dated 30.08.2011 in Memo.No.M-II/HR/DA CELL/552/948/2011 and order the passed by the third respondent dated 27.09.2012 in Memo.No.M-II/HR/DA Cell/552/948/2011 does not warrant any interference by this Court and the same is hereby confirmed.

21. In the result, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.



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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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To:

1.The Chairman

M/s.Neyveli Lignite Corporation Ltd.,
Block No.1, Mines Corporate Office,
Neyveli Town Ship,
Neyveli – 607 801.

2.The Chief General Manager, Mine-II & Expn,

Neyveli Lignite Corporation Ltd.,
Neyveli – 607 802.

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3.The DCE/Safety Dn./Mine-II,
Disciplinary Authority,
Neyveli Lignite Corporation Ltd.,
Neyveli Cuddalore District.

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