



W.A.No.718 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.A.No.718 of 2024

G.Selvamoorthy
S/o.Govindaraj Gounder

... Appellant

-Vs-

1. The Superintending Engineer,
Thiruvannamalai Electricity Distribution Circle,
TANGEDCO.
Thiruvannamalai District.

2. The Executive Engineer,
Operation and Maintenance Division TANGEDCO,
Vandavasi,
Thiruvannamalai District.

... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.5256 of 2020 dated 03.10.2023 and allow the above writ appeal.

For Appellant : Mr.D.Rajagopal

For Respondents : Mr.C.Manoharan
Standing Counsel



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J U D G M E N T

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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 03.10.2023 in W.P.No.5256 of 2020.

2. The appellant was the writ petitioner who was working as Special Grade Foreman at the respondent Department, i.e., TANGEDCO. While he was working so, he was issued with a charge memo on 02.11.2016 by the Executive Engineer, Operation and Maintenance, Vandavasi, in connection with his absence from duty from 04.05.2014 to 09.05.2014 at Vandavasi, 110 KV SS without any prior intimation.

3. In this regard, it is to be noted that, in fact, the appellant / writ petitioner was arrested and remanded to judicial custody in Crime No.184 of 2014 for the alleged offences punishable under Sections 294(b), 323, 355 & 506(i) IPC registered by the South Police Station of Vandavasi.

4. Based on this incident, a disciplinary proceedings has been initiated against him and a charge memo also had been issued where the charges framed



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against the delinquent, i.e., the appellant / writ petitioner was that, since he has suppressed certain material fact as if he had been arrested and been in judicial custody and without any prior intimation, since he had been unauthorisedly absent for duty for those dates and these are the reasons, which are according to the respondent / TANGEDCO / employer, is against the Conduct Rule as per Regulation 30(iv) and (xxvii) of the Tamil Nadu Electricity Board Standing Orders, therefore, such a charge was framed.

5. An Enquiry Officer was appointed, enquiry was conducted where opportunity was given to the appellant / writ petitioner. Ultimately, the Enquiry Officer has found that, the charges framed against him was proved, based on which, the disciplinary authority inflicted the punishment of withholding the increment for one year with cumulative effect, as against which, when appeal was filed, that was also rejected, hence it has triggered the appellant / petitioner to approach the writ Court by filing the aforesaid writ petition challenging those orders of punishment.

6. While deciding the said writ petition, the learned Judge has given the reasons stating that, the scope of the writ petition in disciplinary matters are very limited, where if full opportunity had been given to the delinquent and



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without violating the principles of natural justice, since the enquiry is conducted, ultimately the enquiry officer found that, the charge framed against the delinquent is proved, based on which, if punishment is awarded and if that punishment is not disproportionate to the charge that has been proved, then there has been no scope for the writ Court to interfere, hence by citing the said reasons, the learned Judge dismissed the said writ petition by the impugned order.

7. It is also the reasons stated by the learned Judge that, since the delinquent has involved in the criminal case where he had been in judicial custody that was also an added reason cited by the learned Judge in not interfering with the punishment awarded against him.

8. We have heard Mr.D.Rajagopal, learned counsel appearing for the appellant. He would submit that, insofar as the charge framed against the appellant / petitioner is concerned, according to the TANGEDCO, it is in violation of Clause 30(iv) and (xxvii) of the Tamil Nadu Electricity Board Standing Orders. However, if we look at Sub-clause (iv) as well as Sub-clause (xxvii) of Clause 30 of Standing Orders, that does not relate to the issue which have been dealt with insofar as the delinquent is concerned and the learned



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counsel has also invited our attention to the relevant Sub-clauses (iv) and (xxvii) of Clause 30 of the Standing Orders as read thus:

"30. தீய நடத்தைக்கு வழிகோலும் சில செயல்களும், தவறுதல்களும்.

(iv). வாரியத்தின் சொத்து (அல்லது) வாணிபம் தொடர்பாகத் திருட்டு, மோசடி (அல்லது) நாணயமின்மை ஆகியச் செயல்கள்.

(xxvii). பணிக்கு நியமிக்கப்படும் போதோ (அல்லது) பணிக்காலத்திலோ (டியூரிங் சர்வீஸ்) தனது பெயர், தந்தையின் பெயர் தகுதி, வயது (அல்லது) முந்தையப் பணி (அல்லது) முந்தைய வேலை நியமனம் தொடர்பான தகவல்கள் குறித்துப் பொய்யானத் தகவல்களை அளித்தல்."

9. Also the learned counsel would submit that, the criminal charge framed against the appellant / petitioner also was subsequently quashed, and therefore, there has been no criminal case against him and moreover, such a criminal case was registered against him based on the complaint given by the family members due to the family dispute and to that extent according to the learned counsel, the appellant / writ petitioner has not involved or indulged in any such activities which goes to the route of the matter in respect of the properties either the properties of the TANGEDCO or discharging of his official function. Therefore, such framing of charge itself is defective and based



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on which punishment has been imposed against him which has not been considered in proper perspective and it requires interference, he contended.

10. On the other hand, Mr.C.Manoharan, learned Standing Counsel appearing for the respondents TANGEDCO would submit that, insofar as the unauthorised absence for few days are concerned, there has been no intimation either prior to that or after that and therefore, that is a first violation that has been committed by the delinquent and also the delinquent has been in judicial custody for more than five days which itself requires a disciplinary proceedings which can be initiated against him for such violation as he has not given proper explanation as to why he has been arrested in connection with the criminal case and had been in judicial custody for more than five days.

11. Merely because the criminal charge framed against him has been quashed it would not make him innocent insofar as the disciplinary proceedings is concerned, as the initiation of the disciplinary proceedings is a prerogative of the employer where the employer finds that, if any violation is found out against the Code of Conduct or Standing Orders framed in this regard by the TANGEDCO, based on which, disciplinary action can be taken and if definite charge has been framed, out of which, if an enquiry is conducted by giving fair



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opportunity to the delinquent and ultimately, the enquiry officer found out that, the charge framed against the delinquent is proved, based on which, the disciplinary authority can impose any of the punishment, that has been enumerated under the Rules and only a minor punishment of withholding of increment for one year with cumulative effect alone since has been imposed, that cannot be stated to be an excessive punishment also or disproportionate punishment which in fact has been found out by the learned Judge in the order impugned itself. Therefore, in all aspects, the learned Judge since has considered the issue in proper perspective, the order impugned before this Court does not warrant any interference, the learned Standing Counsel contended.

12. We have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

13. As has been rightly pointed out by the learned counsel appearing for the appellant / petitioner, the very basis of the charge as has been framed by the employer itself cannot be countenanced as it is not in consonance with the relevant clause of the Standing Orders or Code of Conduct.



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14. Insofar as the Sub-clause (iv) of Clause 30 is concerned, it relates to the property or trade of the TANGEDCO and in this regard, the present case by which the appellant / writ petitioner was arrested and had been in judicial custody is no way connected with the property or the affairs of the TANGEDCO, therefore under Sub-clause (iv), such charge could not have been framed.

15. Coming to Sub-clause (xxvii), that also speaks about the information which are supposed to be disclosed by the employee is that, at the time of appointment or during the service, the name of the employee, his parents name i.e., father name, age and earlier service if any, with regard to these informations, there should not be any suppression, if there has been any suppression on these aspects, certainly that would be a violation of Sub-clause (xxvii) of Clause 30 of the Standing Orders.

16. Herein the case in hand, nothing has been suppressed in respect of those aspects as per Sub-clause (xxvii) and therefore, if at all there has been any suppression with regard to the judicial custody, a person who had been arrested and been in judicial custody for five or six days and thereafter come out of the jail, then only, he will be in a position to disclose the information and therefore,



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it cannot be stated that, he has not disclosed those aspects that too within the meaning of Sub Clause (xxvii) of Clause 30 of the Standing Orders.

17. Hence, this Court has no hesitation to hold that the very framing of the charge itself would not stand for any valid reasons or grounds and therefore, based on such charge framed against him, if the enquiry officer comes to such a conclusion that it has been proved and following the same, the disciplinary authority has imposed the punishment, that the punishment according to our view, would go against the very Regulation itself i.e., Clause 30 (iv) and (xxvii) as those regulation would not in any way enable the respondents / TANGEDCO to frame such charge against the appellant delinquent.

18. But these aspects has not been considered by the learned Judge in proper perspective and the learned Judge by simply taking the issue as if that the enquiry has been conducted without violating the procedure as well as the principles of natural justice and to that extent, the learned Judge has dismissed the said writ petition of course on the other two reasons, namely, the punishment awarded against the appellant / petitioner is not disproportionate as well as the delinquent had been in judicial custody for five or six days. These are the consideration since has been shown by the learned Judge, which is, in



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our view, are not related to the issue in question in this *lis*, therefore, we are of the view that the learned Judge approach and the conclusion is liable to be interfered with.

19. Resultantly, the following orders are passed in this writ appeal:

that the order impugned passed by the writ Court is hereby set aside, consequently, the impugned order before the writ Court i.e., order of punishment awarded against the appellant / petitioner also is set aside.

20. Accordingly, this Writ Appeal is allowed. However, there shall be no order as to costs.

(R.S.K., J.) (C.S.N., J.)

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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**R.SURESH KUMAR, J.
and
C.SARAVANAN, J.**

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