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W.P.No.9217 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.08.2026

Pronounced on : 14.08.2026

CORAM :

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.9217 of 2009
and
W.M.P.No.1 & 2 of 2010

A.Subramanian (CPF No.35472),
Assistant Manager (removed from service),
Industrial Canteen, Mine – I,
Neyveli Lignite Corporation Limited,
Neyveli – 607 803.

... Petitioner

vs

1. The Chief Manager/Personnel/Mine – I
(Appellate Authority),
Neyveli Lignite Corporation Limited,
Neyveli – 607 803.
2. The Senior Manager/Personnel/Mine – I
(Disciplinary Authority),
Neyveli Lignite Corporation Limited,
Neyveli – 607 803.
3. The Deputy Manager/Personnel/Mine – I,
Neyveli Lignite Corporation Limited,
Neyveli – 607 803.
4. Neyveli Lignite Corporation Limited,



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Rep. By its Chairman cum Managing Director,
Block – 1, Neyveli – 607 801.

(R4 impleaded as per order dated 06.07.2010

made in M.P.No.3/2010 in W.P.No.9217 of 2009)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondents relating to the order of the second respondent in Proc.No.7920/DA/CGM/M-II/2006 dated 22.01.2009 and the order of the first respondent in Lr.No.CM/P&A/App. Authority/2009 dated 24.04.2009 and to quash the same and consequently direct the respondents to reinstate the petitioner in service with service, monetary and attendant benefits.

For Petitioner : Mr.Kandhan Duraisamy

For Respondents : Mr.N.Nithianandam

Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the records.

2. The case of the petitioner in brief is that he was appointed to the post of Assistant Manager- Industrial Canteen of the respondents *vide* proceedings dated 09.11.1989; that after putting in four years of service, he was issued with charge memo dated 17.09.1993 claiming that he had produced the false SSLC



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Certificate to secure the employment; that he was also placed under suspension with effect from 20.09.1993; that the respondents on their own volition, revoked his suspension on 05.11.1993 and allowed the petitioner to continue in service pending action on the disciplinary proceedings initiated against him.

3. It is the further case of the petitioner that the respondents thereafter, by order 21.06.1997, awarded punishment of stoppage of next increment with cumulative effect; that he was also promoted thereafter as Assistant Manager Grade – I on 01.06.1998.

4. The petitioner contends that while the things stood thus, all of a sudden, the respondents, through their Deputy Security Officer, lodged a complaint on 05.08.1999 with the concerned Police Authorities claiming that the petitioner had produced a fabricated certificate to secure employment; that on the basis of the said complaint, an FIR came to be registered; that he was once again placed under suspension again on 17.08.1999; that aggrieved by the aforesaid action of the respondents, he had approached this Court by filing a Writ Petition *vide* W.P.No.17877 of 1999; that during the hearing of the said writ petition on 02.12.1999, the counsel appearing on behalf of the respondents submitted to the



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Court that the respondents' corporation had taken a decision to drop the impugned proceedings and had also revoked the order of suspension, without prejudice to the criminal action or proceedings already initiated; that this Court, noting the aforesaid submission made on behalf of the respondents, dismissed his writ petition; that the criminal case was closed as undetected on 01.07.2000; and that the petitioner continued in the service of the respondents.

5. It is also contended by the petitioner that thereafter, the respondents have granted him promotion to the post of Assistant Manager, Special Grade – B *vide* proceedings dated 22.10.2003 with effect from 01.06.2003; that the respondents' Vigilance Department had called upon him to produce his original educational certificates nearly 16 years after joining the service; that he had produced the certificates on 19.08.2005; and that the respondents kept back the said certificates with them.

6. The petitioner contended that the respondents thereafter issued charge memo dated 11.10.2006 claiming that while joining the respondents' service, he had furnished his date of birth as 04.01.1963, but it is noticed that his correct date of birth is 21.08.1954; and that if the above charge is established, it would constitute misconduct of fraud and dishonesty in connection with company's



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business and giving false information regarding his date of birth at the time of employment and making false statement at the time of medical examination; that the aforesaid Act or omission is punishable under Clause (XXXV) of Standing Order No.46 of respondent/NLC Standing Order; that he was called upon to submit explanation within three days from the receipt of the charge memo; that he had filed his explanation on 24.02.2007; that the respondents, without considering his explanation, decided to proceed with enquiry and appointed an enquiry officer; that the enquiry officer conducted the enquiry and submitted his report; that based on the said enquiry report, the third respondent issued show cause notice dated 05.12.2008 calling upon the petitioner to submit his explanation to the proposed punishment of removal from service of the respondents' corporation without notice or pay/wages in lieu of notice.

7. It is the further contention of the petitioner that on being served with the notice, he had submitted his explanation to the same *vide* his explanations dated 23.12.2008 and 21.01.2009; that the third respondent, without considering his explanations, had passed the order dated 22.01.2009, awarding the punishment of removal from service; that aggrieved by the aforesaid order, he had filed an



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appeal before the appellate authority, who had rejected the said appeal *vide* order dated 24.04.2009; that the aggrieved by the aforesaid order of the appellate authority confirming the order of the third respondent, he had approached this Court by filing a writ petition *vide* W.P.No.9217 of 2009; and that this Court, by order dated 11.01.2022, had set aside the orders impugned in the said writ petition i.e., the order of the disciplinary authority as affirmed by the appellate authority, and remitted the matter back to the enquiry officer and appointed a retired District Judge as enquiry officer to conduct a detailed enquiry afresh by giving an opportunity to both sides; that aggrieved by the aforesaid order of this Court, the respondents preferred a writ appeal *vide* W.A.No.1326 of 2022; that the Division Bench of this Court, confirmed the order passed in W.P.No.9217 of 2009 to the extent of Paragraph No.18 (i) of the order; that the respondents thereafter had approached the Hon'ble Supreme Court by way of a Special Leave Petition *vide* SLP.(C).No.10816 of 2023; and that the Hon'ble Supreme Court was pleased to set aside the order of this Court dated 11.01.2022 in W.P.No.9217 of 2009 and the order of the Hon'ble Division Bench dated 18.11.2022 in W.A.No.1326 of 2022 and restored the writ petition to the file of this Court; that though the respondents before the Hon'ble Apex Court had contended that the Single Judge of this Court



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and the Hon'ble Division Bench did not consider all the points that were available and canvassed by them; that the respondents had also obtained liberty from the Hon'ble Supreme Court to place on record any additional documents which the respondents intended to rely on; that in spite of the Hon'ble Apex Court granting such liberty, no additional documents are filed by the respondents to contend that this Court while deciding the matter earlier on 11.01.2022 and thereafter in the writ appeal disposed of on 18.11.2022 did not consider all the points that were available to them.

8. It is the further case of the petitioner that the respondents having issued a charge memo for producing a fabricated certificate earlier on 17.09.1993, which also contended that his date of birth could not once again after 13 years of issuing the earlier charge memo allege in October 2006, that his date of birth is wrong; that the basis for issuance of the second charge memo itself being a wrong complaint wherein the identity of the father of the petitioner differs with that of the person named in the complaint, the respondents could not have proceeded with initiating action by issuing the second charge memo; that despite the petitioner offering himself for DNA test/sibling test, the respondents did not undertake such



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an exercise; that the respondents, at the time of his entering into service, having accepted his age and the date of birth and not getting examined by Company's authorized medical officer, cannot now claim that the date of birth mentioned by him is wrong; and that the action of the respondents in issuing second charge memo and passing orders thereon amounts to double jeopardy.

9. The petitioner also contended that none of the witnesses examined by the respondents before the enquiry officer have admitted to the fact of petitioner being the same person, who studied with them in the NLC School, for the respondents to hold that the petitioner had given wrong date of birth at the time of joining the service of the respondents.

10. The petitioner further contended that while he had studied in Chennai and his father's name is R.V.Annamalai, the respondents cannot claim that he had studied in NLC School and his father's name is R.Annamalai; that two of his brothers are working in NLC and their further name is R.Annamalai, for the respondents to hold that he had secured the employment by giving wrong certificate and also furnishing wrong date of birth.



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11. Contending as above, the petitioner seeks for setting aside the impugned proceedings passed by the third respondent as affirmed by the appellate authority.

12. On behalf of the respondents, it is contended that the petitioner, at the time of joining into service of the respondent Corporation, claimed himself belonging to the Irular Community (Scheduled Tribe) and in support of the said claim, had produced Community Certificate No.1432 of 1987, issued on 31.03.1987; that the aforesaid community certificate records the name of the petitioner's father as R.Annamalai and not R.V.Annamalai; and that the claim now being made by the petitioner is contrary to the said certificate obtained by him.

13. The respondents, by submitting as above, placed on record of this Court a copy of the said certificate as additional document.

14. The respondents further contended that as per the said certificate



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furnished, the petitioner, was shown as a resident of Cuddalore; that the claim of the petitioner of being a resident of Chennai and having studied from 6th to 9th class during the year 1980-1981 to 1983-1984 in a School situated at Ambattur, and the Transfer Certificate produced by him, on enquiry was found to be fabricated certificate; that some of the mistakes which are glaring on the face of the said certificate would also show that the same is fabricated one, as it is recorded therein that the petitioner having been admitted to 6th standard on 26.07.1981, while in the details column relating to course of study, it is stated that the petitioner having completed 6th standard during the academic year 1980-1981, thereby, contradicting the information contained therein; that the aforesaid certificate was obtained by one Venkatesan, who affixed his signature as parent/guardian; that though the petitioner claims that Venkatesan, who is working with the respondents and whose father's name is recorded in the respondents' service records as R.Annamalai, is not his brother, no explanation is forthcoming from the petitioner as to how an unconnected person had obtained the Transfer Certificate on behalf of the petitioner; that the respondents did not doubt the correctness of the age of the petitioner at the time of joining into service, as he had produced SSLC certificate containing his date of birth and he having appeared for the said exam as private



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candidate; that as per the Standing Order No.10 of the respondents, the age of the workman is based on the proof of age as recorded in the Metriculation or SSLC certificate or birth certificate and only where the workman is unable to produce the proof of age, such workman would be got examined by the company's authorized medical officer to determine his age; and that as the petitioner had produced his SSLC certificate, the respondents did not doubt his age or date of birth to get him examined by company's authorized medical officer; and that the petitioner cannot take advantage of a wrong done by him i.e., claiming that the date of birth as mentioned in SSLC certificate entered in the record as final, when it is found that the SSLC certificate and the Transfer Certificate of School Education from 6th to 9th standard are found to be fabricated.

15. On behalf of the respondents, it is further contended that the earlier charge memo was issued to the petitioner for producing a fabricated certificate to secure employment i.e., showing SSLC Pass, which is the educational qualification required while the present charge memo is issued for declaring a wrong date of birth on the basis of the Transfer Certificate stated to have been issued by the School in Ambattur, which is found to be false.



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16. The respondents contend that mentioning a wrong date of birth and furnishing a fabricated transfer certificate would constitute misconduct as per Sub-clause (iii) of Class 46 of the NLC Standing Order; that giving his father's name as R.V.Annamalai, contrary to the name mentioned in his community certificate, would amount to giving false information, attracting Sub-clause (xxxiii) of Class 46 of the Standing Order; and that the aforesaid acts being punishable under law, would also attract Sub-clause (xxxv) of Class 46 of the Standing Order of the respondent corporation.

17. The respondents further contended that the petitioner never disputed or challenged the enquiry proceedings or the manner in which it was conducted and on the other hand, recorded his satisfaction on the conclusion of the enquiry proceedings; that the enquiry proceedings commenced on 16.04.2007 and after having 31 sittings, concluded on 05.07.2008; that in the enquiry proceedings, all the materials have been produced and marked; and that the petitioner had cross-examined the management witnesses with the assistance of co-employee and himself; and thus, cannot allege that the enquiry proceedings were not held properly.



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18. On behalf of the respondents, it is further contended that the birth certificate on which reliance is being placed by the petitioner, is obtained by him on 16.02.2007 and the said certificate clearly records the date of registration of the birth as 16.02.2007 i.e., the same day as that of the date of its obtaining; and that said certificate was obtained after being issued with the charge memo dated 11.10.2006 and as such, no reliance can be placed on the said certificate.

19. On behalf of the respondents, it is also further contended that the petitioner, in order to prove that he having resided in Chennai and having attended a School in Ambattur, did not examine any witness on his behalf, be it a neighbour or his classmates from school, nor gave the details or identity of his father as being R.V.Annamalai and his occupation for him to be residing with his father at Chennai while being a minor, except a fabricated transfer certificate obtained from a school in Ambattur and SSLC Certificate appearing as a Private candidate; and thus, the petitioner cannot claim that the respondents are prevented or precluded from initiating action only on account of passage of time, when the fraud played on the respondents to secure employment having come to the notice of the respondent by way of complaint received. The respondent thus, contended that the petitioner



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cannot be allowed to claim the benefit of lower age declared by him at the time of joining the service by eight years four months.

20. On the basis of the above, it is contended by the respondents that since the petitioner, in order to secure employment with the respondents' corporation, had not only produced the fabricated educational qualification certificate ie., SSLC, which is the basic qualification required to enter into service of the respondents, had also furnished a Transfer Certificate from a School in Ambattur, recording his date of birth as 04.01.1963 and the said certificate also having been found to be a fabricated certificate, the said acts of the respondents constitutes grave misconduct as per the Standing Orders of the respondents/Corporation and as such, the impugned orders do not call for any interference.

21. I have taken note of the respective contentions urged.

22. At the outset, this Court is perplexed by the conduct of the respondents, who, on finding that the petitioner having secured employment by



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producing a fabricated SSLC certificate, awarded him punishment of stoppage of next increment *vide* proceedings dated 21.06.1997, instead of terminating his services forthwith. Further, the respondent having lodged a police complaint subsequently on 05.08.1999 did not pursue the same and allowed it to be closed by the police as undetected. It is this indulgence of the respondents that paved the way for the petitioner not only to continue in the service of the respondents till he visited with the order dated 22.01.2009 after having enjoyed the monetary benefits attached to his employment for nearly 20 years, thereby depriving an otherwise eligible unemployed youth being appointed to the said post. Thus, the fault lies with the respondents for closing their eyes to the fraud played on them by the petitioner while securing employment in the year 1989, which but for the connivance of the respondent officials could not have been possible or gave unnoticed for such a long period.

23. Further, the aforesaid indulgence shown by the respondents in not taking stern action against the petitioner at the first instance has only emboldened him to challenge the subsequent action of the respondents on the invented ground of double jeopardy.



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24. The petitioner while seeking employment with the respondent having claimed the status of Irular (ST) and having produced the community certificate dated 31.03.1987, wherein the name of his father having been recorded as R.Annamalai and the said certificate number having been entered in his service record, cannot disown the said certificate produced by himself, which is now placed on record into this Court by the respondents as additional document. If the said certificate as filed by the respondents now into this Court is taken into consideration, two things would become clear, (i) that the name of the petitioner's father is not shown as R.V.Annamalai instead it recorded as R.Annamalai; and (ii) that the petitioner is a resident of Cuddalore in district of South Arcot in the State of Tamil Nadu and he belongs to Hindu Irular, which is recognized as a Scheduled Tribe. Thus, the claim of the petitioner of he being a resident of Chennai and having studied in a school in Ambattur from 6th to 9th standard during the period from 1980 – 1984 and thereafter, he having appeared for SSLC as private candidate in March, 1985 and the said certificate recording the date of birth of the petitioner as 04.01.1963, on enquiry being found to be fabricated, no reliance can be placed on the same to hold that the action of the respondents in disputing the age of the petitioner after 16 years of his entry into service is vitiated or illegal,



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thereby allowing the petitioner to derive further benefit from the fraud played by him to secure employment.

25. Though the petitioner had disputed the claim of the respondents of his father R.V.Annamalai being different person from R.Annamalai and also disputed that A.Venkatesan and A.Panjaksharam being his siblings, by offering himself to be subjected to a DNA test, the said move by the petitioner can only be considered as an intelligent move, since it would not be sufficient if the petitioner offers himself for DNA test, since the consent of the other person with whose DNA, the DNA of the petitioner is to be compared is also required. The petitioner instead of offering himself for being subjected to DNA test should have offered for being subjected to medical test to determine his age, which is a more simpler test. The petitioner in none of his explanations to the show cause notice offered himself for medical examination to determine age, as specified in Sub clause (ii) of Class 10 of the Standing Order, since the date of birth recorded in the service record at the time of entering into service on the basis of the SSLC certificate which was found to be fabricated.



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26. Though this Court could have directed the respondents to subject the petitioner for medical examination to determine his age, having regard to the passage of time from the date of passing of the impugned orders and taking note of the fact that the petitioner had already crossed the age of superannuation even by taking his date of birth as 1963, this Court is refraining from passing such direction. However, as noted herein above, since the respondents allowed the petitioner to continue in service after being found to secure the employment by producing a fabricated educational qualification certificate at the first instance, for over a decade from 21.06.1997 and in the mean time, the petitioner having put in about 19 years of service, this Court is of the view that the order of removal of petitioner from service is to be modified into one of compulsory retirement from service before attaining the age of superannuation, without notice, as per Class 47 of Standing Orders dealing with punishment for misconduct.

27. Accordingly, the writ petition is disposed of in the following manner:

(i) the order of the third respondent dated 22.01.2009 awarding the punishment of removal from service is modified into one of the compulsory retirement of petitioner from service



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without notice.

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(ii) consequently, the order of the appellate authority dated 24.04.2009 confirming the order of the third respondent dated 22.01.2009 is set aside. Consequently, connected miscellaneous petitions are closed. No order as to costs.

14.08.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

To

1. The Chief Manager/Personnel/Mine – I
(Appellate Authority),
Neyveli Lignite Corporation Limited,
Neyveli – 607 803.
2. The Senior Manager/Personnel/Mine – I
(Disciplinary Authority),
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Neyveli Lignite Corporation Limited,
Neyveli – 607 803.
4. Neyveli Lignite Corporation Limited,

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Rep. By its Chairman cum Managing Director,
Block – 1, Neyveli – 607 801.

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T. VINOD KUMAR, J.

dh

Pre-delivery order made in
W.P.No.9217 of 2009

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