

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.12015 of 2011
& M.P.No.1 of 2011

C. Karthikeyan

... Petitioner

- vs.-

1. The Principal Secretary
Government of Tamil Nadu
Energy Department
Secretariat
Chennai-600 009.

2. The Chief Electrical Inspector to Government
Thiru.Vi,Ka, Industrial Estate
Guindy
Chennai-600 032.

3. S. Appavoo

... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the entire records pertaining to G.O.Ms.(d) No.5 dated 14 February 2011 on the file of the first respondent and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.V. Venkatasamy

For Respondents : Mr.M.S.Ramesh
AGP for RR1 and 2
Mr.S. Kasirajan for R.3

ORDER

The petitioner challenges the order dated 14 February 2011 on the file of first respondent whereby and whereunder he was imposed with a punishment of censure on account of the proved misconduct.

Brief facts:

2. The petitioner was appointed as Electrical Inspector in Namakkal District. The petitioner issued a notice of inspection to a consumer by name M/s. Gold King Tex India Private Limited, Namakkal proposing to visit the premises on 17 December 2009. The petitioner, on inspection found several discrepancies. Since there was no authorised person available in the factory, the petitioner re-scheduled the Inspection on 27 January 2010.

3. While so, the petitioner received a memo calling upon him to give explanation with regard to the complaint preferred by the Electrical Contractor. The petitioner in his detailed reply demonstrated the lapses on the part of the consumer and requested the second respondent to take appropriate action against the consumer. The petitioner inspected the premises of the consumer once again and recommended the Senior Electrical Inspector to take action against the consumer. The second respondent issued a show cause notice to the petitioner on 14 June 2010 alleging misbehaviour with the consumer. The petitioner submitted his reply. The second respondent conducted enquiry and imposed the punishment of censure. The said order is challenged in this writ petition.

4. The first respondent filed a counter affidavit in answer to the contentions raised in the affidavit filed in support of the writ petition. The first respondent submitted that enquiry was conducted in strict compliance of the procedure stipulated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. According to the first respondent, the disciplinary authority was compelled to take action against the petitioner because of his ill-tempered attitude against the consumer.

5. Heard the learned Senior Counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of respondents 1 and 2.

Analysis:

6. The disciplinary authority initiated proceedings against the petitioner by issuing a charge memo. The materials available on record shows that the petitioner visited the industry in question and

picked up a quarrel with the Manager of the company on account of the absence of Supervisor besides failure to put up the name board of the Company. The petitioner appears to have thrown the Competency Certificate of the Company Supervisor on the General Manager by uttering the words "You are all good for nothing". The disciplinary authority on the basis of the materials collected in the course of enquiry found that the petitioner failed to conduct any inspection in spite of the presence of General Manager of the Company. The fact that the Supervisor was not available cannot be a reason to abstain from conducting inspection.

7. The disciplinary authority conducted enquiry with due opportunity to the petitioner to prove his defence. The petitioner has no case that he was not heard by the enquiry officer. The disciplinary authority taking into account the charges levelled against the petitioner and considering the enquiry report imposed a punishment of censure, which is the minimum punishment.

8. This Court exercising jurisdiction under Article 226 of the Constitution of India is not expected to sit in appeal over the decision taken by the disciplinary authority. The petitioner would be correct in his contention in case there are no materials before the disciplinary authority to arrive at a conclusion that he has committed misconduct warranting initiation of disciplinary proceedings.

9. The learned Senior Counsel for the petitioner contended that the petitioner has only discharged his duties and as such there was no basis for initiating disciplinary proceedings. I do not find any reason to subscribe to the view expressed by the learned Senior Counsel. The petitioner behaved in a high handed manner. The materials available on record points out to the said fact. Those materials would be sufficient in a departmental proceedings to arrive at a finding of guilt.

10. The standard of proof in a criminal trial and disciplinary proceedings are entirely different. The disciplinary authority is not expected to prove the charges like a criminal court. In departmental proceedings, it is only the preponderance of probability which is taken into consideration.

11. There were materials before the disciplinary authority and the same resulted in imposing the minor punishment. Such being the position, I do not find any reason to take a different view in the matter.

12. In the result, the writ petition is dismissed. Consequently, the connected MP is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Tr

To

1. The Principal Secretary
Government of Tamil Nadu
Energy Department
Secretariat, Chennai-600 009.
2. The Chief Electrical Inspector to Government
Thiru.Vi,Ka, Industrial Estate
Guindy, Chennai-600 032.

+1cc to M/s.S.Kasirajan, Advocate, S.R.No.10501
+1cc to M/s.V.Venkkatasamy, Advocate, S.R.No.10679
+1cc to the Government Pleader, S.R.No.10850

AG(CO)
CA(16/03/2015)

W.P.No.12015 of 2011
and MP No.1/2011

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