

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.33032 of 2015

G.Karunakaran

... Petitioner

vs.

1. Neyveli Lignite Corporation,
Rep. by its Director (Personnel),
Corporate Office,
Neyveli - 607 801.
2. Additional Chief Manager/
Disciplinary Authority
Shift Office, B-2 Relay,
Mines - II
Neyveli Lignite Corporation,
Neyveli.
3. The Chief Manager,
Disciplinary Authority,
Shift Office, B-2 Relay,
Mines - II
Neyveli Lignite Corporation,
Neyveli.
4. The General Manager/P&A/Mines-II & Expn.
Mines - II,
Neyveli Lignite Corporation,
Neyveli - 607 802.
5. Neyveli Lignite Corporation Limited,
Rep. by its Asst. Township Administrator/TA
Office of the Chief General Manager/TA
Neyveli Lignite Corporation Ltd.,
Neyveli.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari, calling for the records culminated in the impugned order in Lr.No.TA/ESI/E1/Rent dues/2015 dated 05.10.2015 of the 5th respondent for non-remittance of rent and other charges for the quarter allotted to the petitioner and quash the same.

For Petitioner : M/s.C.Bhargavi
For Respondents : Mr.N.Nithiayanandham

ORDER

The petitioner, who was working under the respondent Corporation, was removed from service. Earlier, challenging the same, the petitioner filed a writ petition in W.P.No.6070 of 2011. As the petitioner was asked to vacate the premises he was in possession much prior to the order of removal, an application was filed by him seeking continuation therein. The said application and a vacate stay petition were disposed of by order dated 17.11.2011, by permitting the petitioner to be in occupation subject to the result of the writ petition. Thereafter, the order impugned has been issued directing the petitioner to pay a sum of Rs.3,04,399/- being the amount outstanding as on 01.10.2015, failing which, further necessary action will be taken as per the allotment condition.

2. The learned counsel appearing for the petitioner submitted that though in the month of January 2015, the petitioner, would have otherwise reached the age of superannuation, the order of the dismissal being illegal, he cannot be allowed to vacate the premises. Even otherwise, the amount of Rs.3,04,399/- could be adjusted as the petitioner is unable to repay the same since he is out of employment. The learned counsel further submitted that appropriate time may be granted to the petitioner for vacating the quarters as the study of the children of the petitioner would be affected, if they vacate the premises in the middle of the academic year.

3. The learned counsel appearing for the respondents submitted that the interim order passed by this Court on 17.11.2011 in W.P.No.6070 of 2011 has become infructuous. Admittedly, the petitioner has reached the age of superannuation. Even otherwise, he is bound to vacate the premises. The order impugned dated 05.10.2015 was meant for payment of arrears. Though it has not been stated in the said order, the contention of the petitioner cannot be accepted, in view of his superannuation, which would have occurred notwithstanding the order of dismissal passed.

4. There is no dispute of the fact that the petitioner would have reached the age of superannuation by end of January 2015. Now, the petitioner has overstayed by more than 10 months. The order passed by this Court in M.P.Nos.2 to 5 of 2011 in W.P.No.6070 of 2011 has to be construed in the context in which it has been passed. In other words, order of stay passed cannot be interpreted to mean that notwithstanding the attainment of superannuation, the petitioner would be entitled to continue in

the quarters. But, for the proceedings, which is the subject matter of the writ petition, the petitioner would have vacated the premises after reaching the age of superannuation. Merely because, the writ petition is not posted, the interim order would not continue in favour of the petitioner forever. The said interim order has to be read along with normal service period of the petitioner. The payment of Rs.3,04,399/- is not in dispute. The petitioner has not paid the rent for quite some time. The submission made by the learned counsel for the petitioner that the petitioner is unable to pay the dues if any which would otherwise be payable even assuming the order of the dismissal is upheld merits consideration.

5. Accordingly, the writ petition stands disposed of, giving liberty to the respondents to adjust the amount, which is otherwise payable by the petitioner even as per the order of the dismissal for a sum of Rs.3,04,399/-. The remaining amount can also be adjusted till the petitioner vacates the quarters.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner is given time to vacate the quarters on or before 30.04.2016. As on 02.10.2015 till 30.04.2016, till the date on which the petitioner vacates, the respondents are at liberty to adjust the said amount also from and out of the amount which the respondent is liable to receive in the event of dismissal order being upheld by this Court. No costs. Consequently, M.P.No.1 of 2015 is closed.

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-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Director (Personnel)
Neyveli Lignite Corporation,
Corporate Office,
Neyveli - 607 801.
2. Additional Chief Manager/
Disciplinary Authority
Shift Office, B-2 Relay,
Mines - II, Neyveli Lignite Corporation,
Neyveli.
3. The Chief Manager,
Disciplinary Authority,
Shift Office, B-2 Relay,
Mines - II

Neyveli Lignite Corporation,
Neyveli.

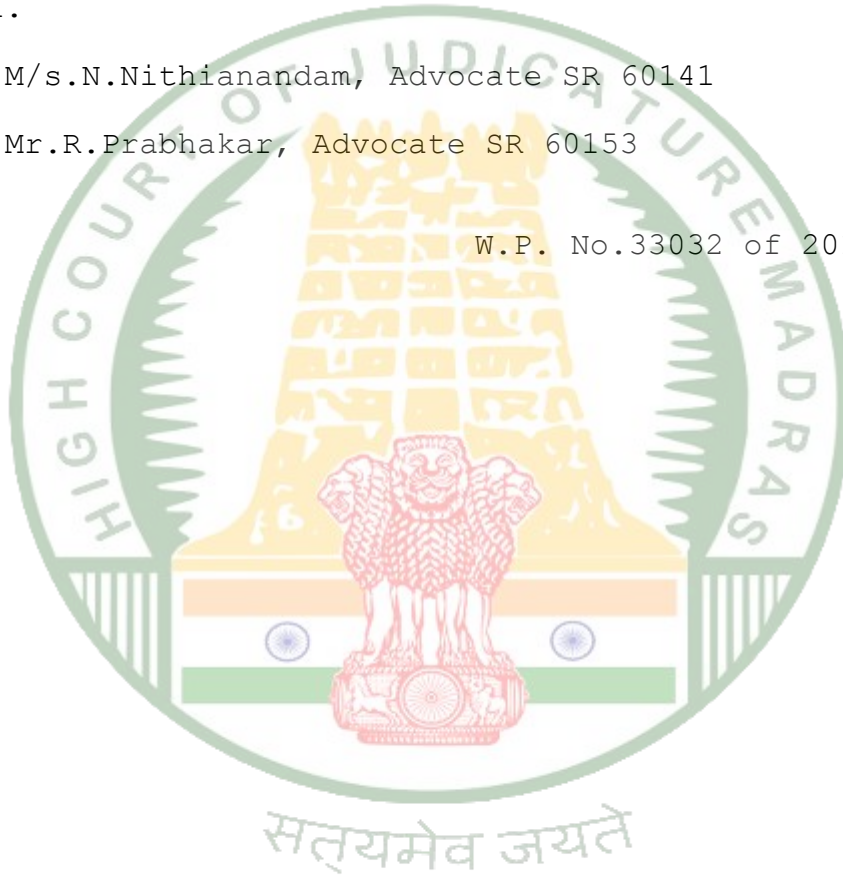
4. The General Manager/P&A/Mines-II & Expn.
Mines - II,
Neyveli Lignite Corporation,
Neyveli - 607 802.

5. The Assistant Township Administrator/TA
Neyveli Lignite Corporation Limited,
Office of the Chief General Manager/TA
Neyveli Lignite Corporation Ltd.,
Neyveli.

+ 1 cc to M/s.N.Nithianandam, Advocate SR 60141

+ 1 cc to Mr.R.Prabhakar, Advocate SR 60153

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