

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.24617 of 2015 &
M.P.Nos.1 & 2 of 2013

Motcharakkini Mary

[PETITIONER]

Vs

1 The Chief Manager (HR/HO)
Corporate Office
Neyveli Lignite Corporation
Neyveli Township and Neyveli.

2 The Additional Chief Manager/S & FS
Disciplinary Authority
Neyveli Lignite Corporation
Neyveli.

3 The Addl. Chief Manager/SEC
Enquiry Officer
Neyveli Lignite Corporation
Neyveli

[RESPONDENTS]

Prayer :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Memo No. S & FS /Disc. / A-VIII / 449-20 (1)/2015 dt 7.7.2015 issued by the 2nd respondent and quash the same and consequently to direct the respondents to allow the petitioner to join the duty pending enquiry.

For Petitioner : Mr.P.Vijendran

For Respondents: Mr.F.B.Benjamin George

O R D E R

Heard Mr.P.Vijendran, learned counsel for the petitioner, and Mr.F.B.Benjamin George, learned counsel, appearing for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.In this Writ Petition, the petitioner challenges the Memo dated 07.07.2015, whereby, the petitioner was directed to appear before the Enquiry Officer to conduct domestic enquiry in respect of the charge memo dated 07.07.2015.

3.From the facts of the case, it appears that the petitioner who was initially working as typist in the respondent organisation (presently working as Assistant Personnel Officer), was aggrieved by certain actions of the Assistant Manager and Personnel Manager and it appears that certain Officers scolded her as a lady suffering from mental imbalance.

4.All those issues got precipitated in an order of suspension dated 23.06.2015, pending disciplinary action. The petitioner challenged the order of suspension in W.P.No. 22926 of 2015, obtained an order interim stay of suspension and by virtue of the same, she was reinstated in service. Subsequently, the petitioner submitted representation on 26.06.2015, after which a letter was issued by the Additional Chief Manager on 01.07.2015, directing the petitioner to attend the Medical Examination at IMC, NLC GH. The said communication was in fact a reminder to the communications dated 06.06.2015 and 11.06.2015. According to the Management, the petitioner did not appear before the Medical Board. Therefore, they sought to proceed with the disciplinary action and notice of enquiry was issued to the petitioner dated 07.07.2015, which is impugned in this Writ Petition.

5.On the other hand, the learned counsel for the petitioner submitted that the petitioner had appeared before the Medical Board. However, the said fact could not have been established by producing any acknowledgment or communication.

6.Be that as it may, the allegations against the petitioner are willful insubordination or disobedience, subversive of discipline or of good behaviour, riotous, disorderly or indecent behaviour, etc. Certain representations given by the petitioner would show that at certain point of time, she was suffering from mental depression. However, she appears to be of the opinion that she is being victimised and certain officers are hatching a

conspiracy against her and there is a threat to her life, mental torture, etc.

7.Those allegations are denied by the Management.

8.However, in order to ascertain as to whether the petitioner is in a fit state of mind to face the disciplinary proceeding or there are any other issues concerning the petitioner, this Court is of the view that an unbiased evaluation of the petitioner's mental health has to be done.

9.Therefore, without going into the disputed questions as to whether the petitioner has appeared before the Medical Board or not, there will be a direction to the petitioner to appear before the Medical Board. The learned counsel for the petitioner is also agreeable to advise his client in this regard. However, to ensure that the petitioner is given a different atmosphere during medical check-up, the petitioner's mental health and other related conditions shall be evaluated by the Kilpauk Medical College Hospital, Kilpauk, Chennai.

10.Accordingly, the Dean of the Kilpauk Medical College Hospital, Kilpauk, Chennai, is directed to constitute a Medical Board to evaluate the mental health of the petitioner. After constituting the Medical Board, serve notice on the learned counsel appearing for the petitioner's address namely, Mr.Vijendran, Advocate, 281/134, Thambu Chetty Street, Chennai-600 001, giving sufficient time for the petitioner to appear before the Medical Board, and the petitioner's counsel shall ensure that the petitioner appears before the Medical Board, on the date fixed by them. Till the report is received from the Medical Board, the impugned proceedings dated 07.07.2015, shall be kept in abeyance.

The Writ Petition is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

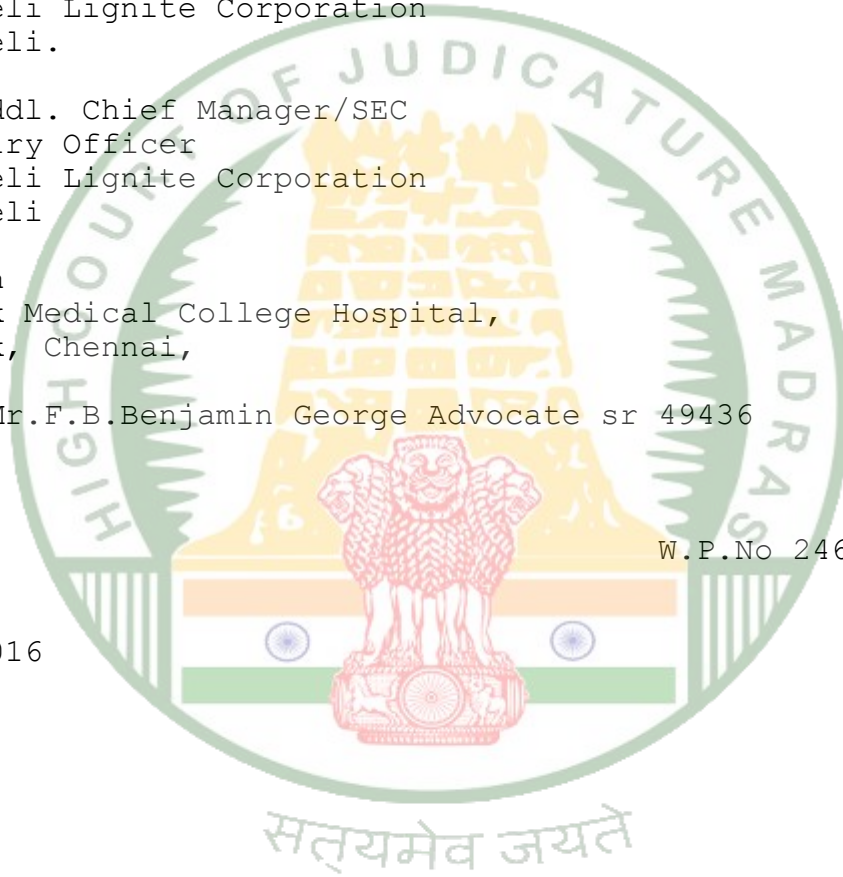
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To

- 1 The Chief Manager (HR/HO)
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 - 2 The Additional Chief Manager/S & FS
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Neyveli
 4. The Dean
Kilpauk Medical College Hospital,
Kilpauk, Chennai,
- +1 cc to Mr.F.B.Benjamin George Advocate sr 49436

W.P.No 24617 of 2015

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