

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.09.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.35609 of 2002

S.Srinivasa Raghavan

.. Petitioner

Vs

1.The Chief Engineer/Transmission,
Tamilnadu Electricity Board,
800, Anna Salai, (VI Floor)
Chennai 600 002.

2.The Superintendent Engineer,
General Construction Circle,
Tamilnadu Electricity Board,
Basin Bridge Power House Complex,
Chennai

3.The Executive Engineer,
Transformer Repair Bay,
Ambattur Industrial Estate,
Chennai-58.

... Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the order of the first respondent passed in his Mem.No.1362/CE/TR/PA/S/A5/2001-2 dated 21.12.2001 confirming the order of the second respondent in his Memo No.835/2000/ADM.1/A.2/F.DP/2000 dated 9.2000/12.10.2000, and quash the said orders dated 21.12.2001 and.9.2000/12.10.2000.

For Petitioner : M/s.S.Periya Swamy

For Respondents : Mrs.R.Varalakshmi

Standing Counsel,TANGEDCO

O R D E R

This Writ Petition has been filed by the petitioner, challenging the order of the Appellate Authority confirming the order of the Disciplinary Authority.

2. The case of the petitioner is that while he was working as Stores Supervisor, Ambattur, he was issued with a charge memo containing five charges, on the ground that he has failed to take an empty tank into account and has not included the steel tank as MS scrap, when the list of items were auctioned and that, he had instructed to cut the useful tank into 4 pieces without getting prior approval of the higher officer.

On receipt of the same, he submitted a detailed reply dated 09.08.1999. Thereafter, an enquiry was conducted and the enquiry officer submitted his report to the 2nd respondent/Disciplinary Authority stating that the charges were proved. Based on the same, a second show cause notice was issued calling upon the petitioner to submit his explanation within seven days, which was acknowledged by the petitioner on 04.08.1999 and an explanation was submitted by him. However, the second respondent did not consider the same and passed the final order dated 12.10.2000, imposing the punishment of postponement of increments for two years with cumulative effect including the period of leave. Aggrieved against the said order, the petitioner preferred an appeal before the first respondent, who by an order dated 21.12.2001, rejected the appeal filed by the petitioner and confirmed the order of the second respondent. Challenging the same, the petitioner has come forward with this writ petition.

3. Learned counsel appearing for the petitioner submitted that the Appellate Authority has not applied his mind and straight away passed the impugned order based on the order of the second respondent/Disciplinary Authority and no reason has been assigned, while passing such order. Therefore, the learned counsel, prays to set aside the impugned order.

4. Per contra, Mrs.R.Varalakshmi, learned standing counsel for the respondents submitted that the order impugned herein has been passed, after analyzing the entire facts and documents, as such, no interference is warranted.

5. Heard both sides and perused the available documents.

6. A reading of the order impugned herein would reveal that without assigning any reason, the Appellate Authority has passed the same confirming the order passed by the second respondent/Disciplinary Authority dated 12.10.2000, by which, the petitioner was imposed with punishment of postponement of increments for two years with cumulative effect. The order of the Appellate Authority indicates non-application of mind on his part especially there is no independent findings rendered thereon.

7. At this stage, the learned counsel for the petitioner submitted that the petitioner retired from service in the year 2004 and this writ petition is pending from the year 2002 onwards.

8. Considering the fact that the petitioner had retired from service in the year 2004 and he has been suffering due to the punishment imposed in the impugned order for the past 14 years, this court is inclined to modify the punishment imposed by the Disciplinary Authority, which was confirmed by the Appellate Authority.

9. Accordingly, this writ petition is disposed of, by modifying the punishment of postponement of increments for two years with cumulative effect into one that of the postponement of increments for two years without cumulative effect. In view of the same, the respondents are directed to settle all the monetary benefits to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kkd

To

- 1.The Chief Engineer/Transmission,
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800, Anna Salai, (VI Floor)
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Tamilnadu Electricity Board,
Basin Bridge Power House Complex,
Chennai
- 3.The Executive Engineer,
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Chennai-58.

+2ccs to Mr.S.Periyaswami, Advocate, S.R.No.49767

GR(CO)
EU(04/10/2016)

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