



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.A(MD)No.1400 of 2016

and C.M.P. (MD) No.10464 of 2016

R.Ramachandran

... Appellant/Petitioner

Vs.

1.Tamil Nadu Electricity Board,
Represented by its
Superintending Engineer,
Thoothukudi Electricity Division Circle,
Thoothukudi.

2.Tamil Nadu Electricity Board,
Represented by its
Executive Engineer (Distribution),
Kovilpatti,
Tirunelveli District.

... Respondents/Respondents

PRAYER: The Writ Appeals are filed under Clause 15 of the Letters Patent against the common order dated 22.06.2016 made in W.P.(MD) No.13198 of 2010.

Prayer in WP(MD). 13198/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ, Order or Direction in the nature of WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned order dated 5.9.2010 in Ku.A.No.322/NiBi.3(1)/K.O.Me.Mu/2010/2 passed by the first respondent confirming the order bearing No.Ku.No.005872/Nibi/Utha3/A74/2010 dated 12.5.2010 passed by the second respondent and quash the same and directing the respondents to refund the sum of Rs.8,469/- recovered from the petitioner s salary with all consequential benefits.

For Appellant :Mr.S.Palanivelayutham

For Respondents :Mr.A.U.Ramanathan
Standing Counsel

**J U D G M E N T**

(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

By consent, this Writ Appeal is taken up for final disposal. Mr.A.U.Ramanathan, learned Standing Counsel accepts notice on behalf of the respondents.

2.A perusal of the materials placed before this Court would indicate that the petitioner during the course of employment as Junior Engineer (Distribution) in Eppodhum Vendran, Kovilpattai Division was alleged to have caused loss to the Board on account of erection of a pole, without prior sanction or intimation, for which departmental proceedings was initiated which has culminated into punishment of stoppage of increment for a period of one year, without cumulative effect and recovery of a sum of Rs.8,469/-. The petitioner made a challenge by filing appeal before the first respondent, who dismissed the appeal vide impugned order dated 05.09.2010. The petitioner further made a challenge of the said order by filing Writ Petition before this Court in W.P.(MD) No.13198 of 2010 and it was dismissed on the ground that scope of judicial review of disciplinary authority as well as appellate authority is very limited. The petitioner challenging the legality of the said order filed this Writ Appeal.

3.Mr.S.Palanivelayutham, learned counsel for the appellant would submit that the order passed by the appellate authority is not speaking and cryptic one and apart from that it has insisted the petitioner on civil consequences and hence requests for setting aside the impugned order.

4. Per contra, the learned counsel for the respondent would submit that the disciplinary authority as well as the appellate authority on due consideration of the entire facts and circumstances have rightly reached the conclusion, which cannot be interfered with and prayed for dismissal of this Writ Petition.

5.This Court considered the rival submissions and also perused the records carefully.

6.The petitioner was punished with stoppage of increment for a period of one year, without cumulative effect and that apart recovery of a sum of Rs.8,469/- by the disciplinary authority, which has been confirmed by the appellate authority. Since the order insists civil consequences and also the appellate authority is the final authority as regards adjudication of the facts, he should have assigned reasons, while disposing of the appeal. Such an exercise has not been exercised by the appellate authority. <https://hcservices.courts.gov.in/hcservices/> the sole ground, the impugned order warrants interference by this Court.



7. In the result, the Writ Appeal is allowed and the order of this Court dated 22.06.2016, made in W.P.(MD) No.13198 of 2010 and the order of the 1st respondent dated 05.09.2010 are set aside and the matter is remanded to the first respondent/appellate authority for fresh adjudication of the appeal on merits and in accordance with law and after affording an opportunity of personal hearing to the appellant/writ petitioner and to dispose of the appeal within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the appellant/writ petitioner. No costs. Consequently, connected Miscellaneous Petition stands closed.

Sd/-

Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To

1. The Superintending Engineer,
Thoothukudi Electricity Division Circle,
Thoothukudi.

2. The Executive Engineer (Distribution),
Kovilpatti,
Tirunelveli District.

+1 CC to Mr.S.PALANI VELAYUTHAM, Advocate, SR No.68372

+1 CC to Mr.A.V.RAMANATHAN, Advocate, SR No.68113

**W.A. (MD) No. 1400 of 2016
and C.M.P. (MD) No.10464 of 2016**

sj

SH/SS-2:24.11.2016:3P/5C