

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2017

CORAM :

The Hon'ble Mr.Justice T.Raja

Writ Petition Nos.35854 to 35856 of 2016

and

W.M.P.Nos.30800 to 30802 of 2016

1. J.Vijayarangan ... Petitioner in W.P.No.35854 of 2016
2. G.Devanathan ... Petitioner in W.P.No.35855 of 2016
3. P.Kaliyamurthy ... Petitioner in W.P.No.35856 of 2016

Vs.

1. The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai.
2. The Superintending Engineer,
TANGEDCO,
Cuddalore. ... Respondents in all W.Ps

Prayer in all WPs. : The Writ Petitions are filed under Article 226 of the Constitution of India with a prayer to issue a Writ of Certiorarified Mandamus, to call for records of the second respondent, in Memo No.1063/Adm.1/A.4/F/Doc/2013, dated 11.02.2013, and to quash the same, and to direct the second respondent to reinstate the petitioners in the TANGEDCO and thereby, directing the second respondent to provide the petitioners all the service and monetary benefits.

For Petitioners : Mr.N.Suresh

For Respondents : Mr.M.Fakkir Mohideen
Standing Counsel

COMMON ORDER

The petitioners have filed the Writ Petitions, seeking to quash the order of punishment of removal from service passed against them by the the second respondent, dated 11.02.2013, and consequently, to direct the second respondent to reinstate them in service, and to provide all the service and monetary benefits.

2. Since the issue involved in these Writ Petitions are identical in nature, they are heard together and disposed of vide this common order.

3. Heard the learned counsel for the petitioners and the learned Standing Counsel for respondent-TANGEDCO.

4. The case of the petitioners as stated in the affidavits, filed in support of the Writ Petitions is as follows:-

i) The petitioners, viz., I) J.Vijayarangan, ii) G.Devanathan and iii) P.Kaliyamurthy joined the services of the respondent-TANGEDCO as Field Assistant, Wire-man and Mazdoor respectively, and they were rendering their service without any blemish. While so, by orders, dated 03.08.2012, they were placed under suspension with effect from 30.07.2012, on account of registration of a criminal case against them, in Crime No.676 of 2012, which was taken cognizance by the learned Principal Sessions Judge, Cuddalore/trial Court, and assigned Sessions Case No.32 of 2010, and an order of conviction and sentence were passed against them. Based on the said order of conviction and sentence, the second respondent passed the present impugned orders, dated 11.02.2013, imposing the major penalty of removing the petitioners from service. The petitioners would state that, as against the order of conviction and sentence passed by the trial Court, the petitioners preferred Appeals before the Hon'ble Division Bench of this Court, in Criminal Appeal Nos.548 and 688 of 2012, and the Appeals were allowed, by a common judgment, dated 29.02.2016, and the said judgment also attained finality, as there is no further Appeal against as on date.

ii) The petitioners case is that, when the conviction and sentence passed against them were set aside and they were acquitted from the charges, the second respondent ought to have reinstated them in service, and they would also urge in this context that there is no departmental proceedings pending against them, on account of the abovesaid criminal proceedings, and since the respondent-TANGEDCO failed to revoke the suspension orders, and not reinstated them in service, they submitted individual representations three times to the second respondent, dated a) 25.04.2016, b) 02.05.2016 and c) 28.09.2016. Since all those representations evoked no response, the petitioners are constrained to approach this Court, by way of filing the present Writ Petitions, seeking to quash the order of punishment of removal from service.

5. I have considered the rival submissions, and perused the materials placed on record.

6. Admittedly, as against the order of conviction and sentence passed against the petitioners by the Trial Court, Appeals were preferred by them before the Hon'ble Division Bench of this Court, and the Division Court, by a detailed and well

reasoned judgment, dated 29.02.2016, allowed the Appeals, and acquitted the petitioners from the charges. It is an admitted fact that against the said judgment, the State has not preferred any Appeal as on date. It is not in dispute that, there is no departmental proceedings pending against the petitioners, based on the criminal proceedings initiated against them. When that being so, the second respondent ought to have revoked the impugned orders of removal passed against the petitioners and reinstated them into service. At this juncture, the learned Standing Counsel for the respondent-TANGEDCO has fairly admitted that against the judgment of acquittal passed by the Hon'ble Division Bench, no Appeal has been preferred by the State. However, he justified the action on the part of the respondent-TANGEDCO, by producing a letter, dated 26.11.2016, addressed to the Inspector of Police, Nellikuppam Police Station, whereby, the respondent-TANGEDCO sought for an information as to whether any Appeal has been preferred against the judgment of acquittal passed in favour of the petitioners, and since, till date, they have not been apprised of the information sought for, they have not disposed the petitioners' representations.

7. Be that as it may, the impugned orders of removal from service have been passed against the petitioners based on the conviction and sentence imposed by the trial Court, and, as against the order of the trial Court, Appeals were preferred by the petitioners, and the Hon'ble Division Bench reversed the findings of the trial Court and set aside the order of conviction and sentence, and therefore, the respondent-TANGEDCO is expected to reinstate the petitioners in service within a period of six months from 29.02.2016, i.e., from the date of which, the judgment was rendered in Criminal Appeals, for, as per the Code of Criminal Procedure, as against the judgment of acquittal, the State has to prefer Appeal within a period of 30 days. Therefore, the reason assigned by the respondent-TANGEDCO in not reinstating the petitioners in service citing that they are handicapped without being furnished with the information sought by them, dated 26.11.2016, (as mentioned supra) does not hold water.

8. In the light of the above, the second respondent is directed to consider the petitioners' individual representations dated 25.04.2016, 02.05.2016 and 28.09.2016, and pass suitable orders on merits and in accordance with law, by reinstating them in service. So far as the claim for backwages is concerned, it is for the respondent-TANGEDCO to take appropriate decision as per law.

9. With the above directions, the Writ Petitions are disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sd

To

1. The Chairman,
TANGEDCO,
No.144, Anna Salai,
Chennai.

2. The Superintending Engineer,
TANGEDCO,
Cuddalore.

+1 cc to M/s.M.Fakkir Mohideen Advocate sr 19027

+1 cc to M/s.N.Suresh Advocate sr 19368 dt 04/07/2017

Writ Petition Nos.35854
to 35856 of 2016

rsi(co)
aa23/06/2017

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