

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM

THE HON'BLE Mr. JUSTICE M. DHANDAPANI

W.P.No.34699 of 2003

K.Swaminathan

... Petitioner

v.

1. The Director Personnel
Block-I, Corporation Office,
Neyveli Lignite Corporation Limited,
Neyveli-607 801.
Cuddalore District.
2. The Chief Personnel Manager,
Block-I, Corporation Office,
Neyveli Lignite Corporation Limited,
Neyveli-607 801.
Cuddalore District.
3. The Assistant Personner Manager,
(Disciplinary Authority)
Thermal Power Station-I,
Neyveli Lignite Corporation Limited,
Neyveli-607 807,
Cuddalore District.
4. The Deputy General Manager, (P&A)
Neyveli Lignite Corporation Limited,
Neyveli.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari, to call for the records relating to the proceedings of the 4th respondent circular No.DGM(RP)/P&A/021/99, dated 12.08.1999, quash the same.

For Petitioner : Mr.K.Muthuselvam
For Respondents : Mr.N.A.K.Sarma

O R D E R

This Writ Petition has been filed by the petitioner challenging the circular dated 12.08.1999, issued by the Deputy General Manager (Personnel and Administration), Neyveli Lignite

Corporation Limited, Neyveli, Cuddalore District, the 4th respondent herein and to forbear the respondents herein, from removing the petitioner from the post of Junior Engineer Grade-I from the above said Corporation.

2. Mr.N.A.K.Sharma, learned counsel appearing for the respondents would submit that the issue involved this writ petition already covered by this Court in its order dated 02.12.2009 in W.P.No.20352 of 2001.

3. The relevant portion of the order, reads as under:

"P-10, Reading of the above said circular makes it clear that the intention of the corporation was to maintain moral standard expected of the employees of the Corporation. As rightly contended by the learned counsel for the respondents that the circular vests discretion to the disciplinary authority to impose a major penalty including removal from service. An employee of the Corporation has no legal or statutory right to contend only that certain acts of misconduct, should be construed as minor, and that the disciplinary/appointing authority, should exclude categorization of certain acts of misconduct, warranting imposition of a major penalty. The regulations relating to maintenance of discipline and moral standards as prescribed by the Corporation/Institution, have to be followed by all the employees of the Corporation and they have no legal or statutory right to question the authority of the employer, in the matter of proportionality of the penalty, even before the infliction of the penalty, for the misconduct alleged against him. It is for the disciplinary / appointing authority to decide, subject to the nature of misconduct and the findings arrived at during the enquiry.

P-11, For the above said reasons, I do not find any manifest illegality and the impugned circular is in contravention of any of statutory or constitutional provisions. During the course of arguments, it is stated that a show cause notice has already been issued by the corporation on the findings to the petitioner and that he has not replied so far, due to the pendency of the writ petition. For the reasons stated supra, the impugned

order is sustained. The petitioner is directed to submit his objections to the findings recorded by the enquiry officer within 2 weeks from the date of receipt of a copy of this order. The respondents shall consider the same and pass appropriate orders in accordance with statutory provisions. Interim injunction already granted in M.P.No.29992/2001 in W.P.No.20352 of 2001 is vacated. Hence the writ petition is dismissed. No Costs."

4. In the light of the order stated supra, since this Writ Petition is also filed challenging the circular dated 12.08.1999, this Writ Petition is dismissed. No costs.

Sd/-
Asst.Registrar (CS.V)

/true copy/

Sub Asst. Registrar

sji/arr

To

+ 1 cc to M/s.D.Balachandran, Advocate,SR.59085

+ 1 cc to M/s.N.Nithianandam, Advocate,SR.58739

W.P.No.34699 of 2003

NR 20/09/2017

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