



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2017

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P. (MD) .No.370 of 2014

WEB COPY

C. Kuppu

..Petitioner

Vs.

1. The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai - 600 002.
 2. The Chief Engineer (Distribution),
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board, Trichy.
 3. The Additional Chief Engineer
O/o., the Superintendent Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukkottai Electricity Distribution Circle,
Pudukkottai Post & District.
- .. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in Ku.Aa.No.26234/NiP.P/P/P.1/Koo.Ma. Appeal/2013, dated 30.10.2013 on the file of the Respondent No.2 and the consequential order of rejection of appeal in Ku.Aa.No.23535/Ni.P.Aa/Aa.1/2013, dated 24.10.2013 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioner : Mr. S. Louis for Mr.T.Lajapathi Roy
For Respondents : Mr. M. Balasubramanian,
Standing Counsel

O R D E R

This Writ Petition is filed challenging the impugned order of the second respondent dated 30.10.2013 and the consequential order of rejection of appeal by the second respondent dated 24.10.2013.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:-

<https://hcservices.ecourts.gov.in/hcservices/> 2.1.The petitioner while he was working as Junior Engineer (Grade - I), was transferred from Keernur to Thondaman



Nallur on 11.04.2007 by the third respondent due to administrative grounds. The petitioner submitted medical leave application with the official respondents, alleging that he was ill. However, the petitioner was again transferred to Ennore Thermal Power Station on administrative grounds. The petitioner filed a Writ Petition before this Court in W.P. (MD) No.21199 of 2007 and obtained an order of stay. It is alleged by the petitioner that because the petitioner filed Writ Petition challenging the order of transfer, surprisingly, a charge memo was issued by the third respondent to the petitioner. The allegations in the charge memo are as follows:

(i) The petitioner has not handed over the charges with the relieving officer to the subsequent incumbent;

(ii) When the petitioner was relieved on transfer on 12.04.2007 from Keeranur, he has not handed over the petty cash (a sum of Rs. 1000/-) to the competent officer;

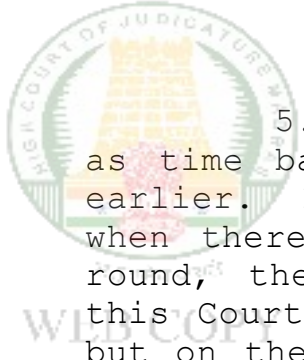
(iii) When the petitioner relieved on transfer on 12.04.2007 from Keernur, he has not obtained the No Objection Certificate from the Assistant Executive Engineer; and

(iv) When the petitioner was relieved on transfer on 12.04.2007 from Keernur, he has not submitted closing report for which works have been completed.

3.The petitioner has submitted his explanation on 09.04.2009 and denied all the charges stating that he is not responsible in terms of paragraph 94 (2) of Tamil Nadu Electricity Board Manual Vol.I. The petitioner also requested the third respondent to exonerate from the charges. However, without considering the representation and factual details furnished by the petitioner, the third respondent imposed the punishment. Challenging the order of punishment dated 30.03.2012, the petitioner filed a Writ Petition in W.P.No.5990 of 2012. This Court disposed of the writ petition with a direction to the petitioner to challenge the order of the third respondent dated 30.03.2012, by filing an appeal before the appropriate forum. It was thereafter, the petitioner preferred the appeal. However, the appeal was rejected by the second respondent without assigning any reasons. Thereafter, the petitioner challenged the order of the appellate authority in W.P. (MD) No.7018 of 2013. This Court set aside the order of the appellate authority dated 20.02.2013 and remitted the matter to the appellate authority to consider the appeal filed by the petitioner afresh and pass orders in accordance with the decisions referred to in the order. This time, the second respondent passed an order rejecting the appeal mainly on the ground that the appeal is time barred.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.



5. It is pertinent to note that the reason for dismissal as time barred, was not mentioned when the appeal was dismissed earlier. It is open to the petitioner to approach this Court even when there is an alternative remedy of appeal. In the earlier round, the petitioner approached this Court directly. However, this Court refused to entertain the Writ Petition not on merits, but on the ground of alternative remedy. It was only thereafter the petitioner filed appeal and prosecuted the same. However, the second respondent did not dismiss the appeal on the ground of limitation but on merits. It was therefore clear that the second respondent has understood the scope of appeal in the light of the orders passed by this Court earlier. Hence, the rejection of appeal on the ground of limitation, now in the second round after remand, is neither appropriate nor sustainable having regard to the settled principles of law.

6. In the above circumstances, this Writ Petition is allowed and the impugned order passed by the second respondent dated 30.10.2013 is set aside. The second respondent shall consider the appeal purely on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order uninfluenced by any of the observations of this Court. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Engineer Personnel,
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O/o., the Superintendent Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Pudukkottai Electricity Distribution Circle,
Pudukkottai Post & District.

+1 cc to Mr.M.Balasubramanian, Advocate, SR.No.16697

+1 cc to Mr.T.Lajapathi Roy, Advocate, SR.No. 16057

ORDER MADE IN
W.P (MD) No.370 of 2014
20.03.2017