

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1303 of 2017
and
C.M.P.No.18171 of 2017

1. Tamil Nadu Electricity Board,
rep. By its Chairman
800 Anna Salai, Chennai 600 002.
2. Chief Engineer (Distribution),
Chennai Regional/North
Tamil Nadu Electricity Board,
802, Anna Salai, Chennai 600 002. Appellants/Respondents

Versus

P.V.Sarguru Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 3.11.2016 passed in W.P.No.13816 of 2008 on the file of this court.

WP.No.13816 of 2008:Petition filed U/A 226 of the Constitution of India to issue a writ in the nature of certiorarified mandamus after calling for the concerned records from the respondents quash the Charge Memo bearing Memo No.014475/563/Admo./A.Sec./A.3/2003 dated 7.11.2003 issued by the 2nd respondent the order of the 2nd respondent bearing memo no. 014475/563/Adm.O/B.Sec./B.2/2005-4 dated 9.5.2005 and the order of the 1st respondent bearing Per.B.P(Chairman) No.184 Administrative Branch dated 30.08.2005 consequently direct the respondents to pay arrears of wages from 12.09.2000 to 31.12.2003 give continuity of service settle all the terminal benefits of the petitioner, pay pension and pension arrears from the date of superannuation viz., 01.01.2004.

For appellants : Mr.Vijayanarayanan, Advocate General
for Mr.Dilipkumar

For respondent : Mr.Balan Haridas

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Advocate General appearing for the appellants and the learned counsel appearing for the respondent.

2. This writ appeal has been filed by the Tamil Nadu Electricity Board against the order passed by the learned Single Judge in reducing the punishment of dismissal from service imposed on the respondent herein to one of compulsory retirement.

3. It appears that the respondent herein, having entered into service of the appellants in the year 1967, was suspended by order dated 12.9.2000 with effect from 5.9.2000 on the ground that he was caught red handed while accepting a bribe in his capacity as Assistant Engineer and later by order dated 9.5.2005, was dismissed from service after due completion of disciplinary proceedings. It further appears that in the meantime, the parallel criminal proceedings initiated against him ended in conviction vide order dated 20.2.2008, however, the same was set aside in Criminal Appeal No.212 of 2008 by judgment dated 10.3.2015. Even before such acquittal, he had filed the writ petition challenging the charge memo as well as the final order of removal of service. In the writ petition, it appears that the learned Single Judge, having found that the respondent herein had put in unblemished service from the date of his joining in the year 1967 till the date of the present allegation, and considering the fact that he got acquittal in the criminal proceedings, took a lenient view to reduce the punishment imposed upon him from dismissal of service to one of compulsory retirement. The same is under challenge before us.

4. The learned Advocate General would appearing for the appellants, relying upon the decision in AJIT KUMAR NAG v. GENERAL MANAGER (PJ) INDIAN OIL CORPORATION LIMITED HALDIA & OTHERS ((2005) 7 SCC 764) would submit that the acquittal in criminal proceedings cannot be taken advantage for getting exoneration in the departmental proceedings as the stand of proof required in departmental proceedings is much lower than the one in criminal proceedings and mere preponderance of probability is suffice to impose punishment upon a delinquent and therefore, there is no question of showing any leniency on the ground of acquittal in criminal proceedings.

5. It appears that the judgment relied upon by the learned Advocate General is in respect of disproportionate income whereas the instant one is a trap case wherein benefit of doubt is given in the criminal proceedings and based on which and taking into consideration the unblemished long service put in by the respondent, the learned Single Judge has taken a lenient view to modify the the order of termination into compulsory retirement.

6. However, considering the facts and circumstances of the case especially, the length of service put in by the respondent without any remark but, for the present one and the acquittal of charges in the criminal proceedings, we are of the view that the the punishment of dismissal of service would be disproportionate, and therefore, we are not inclined to interfere with the order passed by the learned Single Judge,

however, we feel that the order passed by the the learned Single Judge requires modification to some extent and accordingly, while upholding the order passed by the learned Single Judge, it is hereby made clear that the the respondent would be entitled to terminal benefits benefits by calculating his service from his date of joining in the year 1967 upto 4.9.2000 alone as he was suspended on 5.9.2000 and accordingly, he would be entitled to get 75% of the pensionary benefits by calculating the same for a period from 1967 to 4.9.2000. It is needless to say that he would be entitled to future pension also on the above basis. Arrears, if any, would be calculated and disbursed to him within a period of three months from the date of receipt of a copy of this judgment.

7. The writ appeal is allowed in part to the extent indicated above. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ssk.
To:

1. Tamil Nadu Electricity Board,
rep. By its Chairman
800 Anna Salai, Chennai 600 002.
2. Chief Engineer (Distribution),
Chennai Regional/North
Tamil Nadu Electricity Board,
802, Anna Salai, Chennai 600 002.

+1cc to Mr.Balan Haridass, Advocate Sr.No.10496
+1cc to Mr.P.R.Dhilipkumar, Advocate Sr.No.10586

SSD(CO)
sm:20.3.2018

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