

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.39338 of 2003
and
W.P.M.P.No.47594 of 2003

B.Mohammed Haneef

.. Petitioner

vs

1.The Superintending Engineer,
Tiruppathur Electricity Distribution Circle,
Tamil Nadu Electricity Board, Tiruppathur,
Vellore District.

2.The Chief Engineer,
Distribution Vellore Region,
Tamil Nadu Electricity Board,
Vellore - 6

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to (i) Memo No.1198/Adm.III/A2/2001-5 dated 26.09.2002 of the 1st respondent and (ii) Memo No.001681/NIV. Aa/U3/2003 dated 28.05.2003 of the 2nd respondent and to quash the same as illegal and consequently direct the respondents to grant monetary benefits payable to the petitioner.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mr.M.Fakkir Mohideen, Standing counsel
for TNEB, for R1 & R2

O R D E R

The order of punishment issued by the original authority in proceedings dated 26.09.2002 and the Appellate order passed by the 2nd respondent in proceedings dated 28.05.2003 are under challenge in this writ petition.

2.The writ petitioner was holding the post of Assistant

Executive Engineer. On account of certain allegations, a charge memo was issued by the 1st respondent in proceedings dated 11.01.2002. The writ petitioner denied the charges and submitted an explanation on 23.01.2002. However, the authorities had not accepted the explanations submitted by the writ petitioner and proceeded with the disciplinary proceedings and passed a final order on 26.09.2002, imposing the punishment of stoppage of increment for one year with cumulative effect. Challenging the said order of punishment issued by the original authority, the writ petitioner preferred an appeal before the Appellate Authority / 2nd respondent on 02.11.2002. The said appeal was partly allowed by the Appellate Authority / 2nd respondent, revising the punishment of stoppage of increment for one year with cumulative effect as stoppage of increment for one year without effect.

3.The punishment was modified and the learned counsel for the petitioner states that no reason has been assigned by the Appellate Authority in the Appellate order. The writ petitioner filed an appeal to set aside the punishment order. However, the Appellate Authority had failed to consider the grounds raised in the appeal and passed a routine order, reducing the punishment from stoppage of increment for one year with cumulative effect to stoppage of increment for one year without cumulative effect. Reduction of punishment was imposed without any application of mind and without considering the grounds raised by the petitioner. It is mandatory on the part of the Appellate Authority to assign reasons for modification for punishment. However, No reason has been assigned in the impugned order. To substantiate the said argument, the learned counsel for the petitioner cited the judgment of the Hon'ble Supreme Court of India in the case of Divisional Forest Officer, Kothagudem and others v. Madhusudhan Rao, reported in 2008 3 SCC 469 and the relevant paragraph 20 is extracted hereunder:

"20.It is no doubt also true that an appellate or revisional authority is not required to give detailed reasons for agreeing and confirming an order passed by the lower forum but, in our view, in the interests of justice, the delinquent officer is entitled to know at least the mind of the appellate or revisional authority in dismissing his appeal and/or revision. It is true that no detailed reasons are required to be given, but some brief reasons should be indicated even in an order affirming the views of the lower forum."

4.The learned counsel for the respondents disputed the contentions by stating that the appeal submitted by the writ petitioner was considered by the Appellate Authority and an order was passed, modifying the punishment. The very

modification itself shows that the Appellate Authority had considered the grounds raised in the appeal.

5.This Court is of an opinion that, the order must be speaking and the reason for modification should be assigned by the Appellate Authority.

6.On a perusal of the Appellate order, no reason has been stated for the modification of punishment. Contrarily, the Appellate Authority states that the grounds raised in the appeal were considered and the punishment was reduced to the stoppage of increment for one year without cumulative effect. The writ petitioner is entitled to know the reasons for the modification of punishment and the same is not found in the impugned Appellate order. Thus, the present writ petition is a fit case for remand. Accordingly, the Appellate order passed by the 2nd respondent in Memo No.001681/NIV. Aa/U3/2003 dated 28.05.2003 is quashed and the matter is remanded back to the 2nd respondent for reconsideration. The writ petitioner is permitted to submitted any additional grounds, if any to the 2nd respondent. On receipt of all such documents, the 2nd respondent is directed to consider the grounds raised by the writ petitioner in his appeal and pass orders on merits and by assigning reasons within a period of twelve weeks from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stands partly-allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Superintending Engineer,
Tiruppathur Electricity Distribution Circle,
Tamil Nadu Electricity Board, Tiruppathur,
Vellore District.

2.The Chief Engineer,
Distribution Vellore Region,
Tamil Nadu Electricity Board,
Vellore - 6

+1 cc to Mr.M.Fakkir Mohideen, Advocate Sr.No.80849

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CSL/13.12.2018