

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2018

CORAM
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.24076 of 2011
and M.P.No.1 of 2011

B.Raman

..Petitioner

Vs

1.Director (Mines)

Appellate Authority

Neyveli Lignite Corporation Ltd.,

Neyveli-1

2.General Manager/SME/Mine.1

(Disciplinary Authority)

Office of the Chief General Manager/Mine-I & IA

Neyveli Lignite Corporation Ltd.,

Neyveli-3

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in PROC.No.82-Dep./Mine-1/2004 dated 19.11.2008 as confirmed by the 1st respondent in PROC.No.82-DEP/DA/D(M)/2009 dated 10.09.2009 and quash the same and direct the respondents to confer all the consequential benefits.

For Petitioner : Mr.Ganesan for M/s.C.S.Associates

For Respondents: Mr.N.Nithianandam

ORDER

The Writ Petitioner has challenged the order of the 2nd respondent dated 19.11.2008 which was confirmed by the 1st respondent by order dated 10.09.2009 in the present Writ Petition and sought to quash the said dismissal order. The impugned order was passed by the Respondent-Corporation on the ground that the charges established against the Petitioner was very much grave in nature. The Petitioner was allegedly charged for the offence u/s.120(B) read with Section 302 of IPC along with six others and the said case was taken on file in C.C.No.12/2004 by the learned Judicial Magistrate No.2, Chidambaram.

2. The Petitioner viz., B.Raman, (PF.No.28982) DCE, SME (MM), Mine.1, was placed under suspension on the ground that a

Criminal case is under investigation and was issued with a charge memo on four counts. The Petitioner submitted a detailed explanation for the said charge memo issued by the respondent corporation. Enquiry Officer was appointed and he has submitted report by holding that all the four charges are proved. Pursuant to the report, second show cause notice was issued to the Petitioner. The Petitioner has also submitted a detailed explanation to the Corporation. Again on 05.09.2008, another show cause notice was issued by the Corporation, asking as to why punishment of removal from service should not be imposed. The Petitioner made representation to conduct de nova enquiry. The 2nd respondent passed the final order dated 19.11.2008 imposing punishment of removal from service. As against the same, the Petitioner preferred appeal to the 1st respondent. The 1st respondent did not consider the various grounds raised by the Petitioner and dismissed the appeal, confirming the Punishment.

3. The Judicial Magistrate No.2, Chidambaram, committed the case to the trial court. Subsequently, the said criminal case was taken on file in S.C.No.331 of 2008 before Additional District Court/Fast Track Court No.1, Chidambaram. The trial court, by its Judgment dated 29.04.2011, held that the Petitioner is not found guilty for the charges alleged against him and accordingly, acquitted the Petitioner.

4. According to the learned counsel for the Petitioner, in view of the acquittal of the Petitioner in the criminal case, the order of Punishment of removal from service imposed on the Petitioner is to be quashed.

5. The learned counsel for the respondent-Corporation would submit that even though the criminal case was ended in acquittal, the enquiry conducted by the Corporation was an independent one and the Disciplinary Authority came to the conclusion that the charges are grave in nature and passed the order of punishment of removal from service. He further submits that the judgment passed by the criminal court is subsequent to the order passed by the original authority and appellate authority. However, as a residual argument, the counsel for the respondent-Corporation submits that taking into consideration the aforesaid subsequent acquittal order passed by the trial court, he has also got the instruction to submit that the punishment imposed on the Petitioner i.e, removal from service, could be reconsidered and modified.

6. It is also submitted by the learned counsel for the respondent corporation that some dues are to be recovered from the writ petitioner. Therefore, the impugned order of punishment of removal from service passed by the respondents can be modified to that of compulsory retirement.

7. The learned counsel for the Writ Petitioner agreed that if any amount has to be recovered from the Writ Petitioner, on receipt of proper notice from the respondent-Corporation, the Writ petitioner will pay the same.

8. In the light of the above submissions and as agreed upon by the counsel on either side, the following order is passed:-

(1) The impugned order dated 19.11.2008, passed by the 2nd respondent imposing punishment of Removal from service is modified to that of compulsory retirement.

(2) The Petitioner is directed to give representation to the Respondent Corporation seeking retirement benefits, in accordance with law, within eight weeks from the date of receipt of copy of the order.

(3) If any due amount is payable by the Writ Petitioner, the Respondent-Corporation shall issue notice to the Writ Petitioner, in accordance with law and recover the same.

9. In fine, the Writ petition is disposed of with the above directions. The impugned order dated 19.11.2008 passed by the 2nd respondent is modified to the extent indicated above. No costs. Consequently, connected MP is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Director (Mines)
Appellate Authority
Neyveli Lignite Corporation Ltd.,
Neyveli-1

2.The General Manager/SME/Mine.1
(Disciplinary Authority)
Office of the Chief General Manager/Mine-I & IA
Neyveli Lignite Corporation Ltd.,
Neyveli-3

+1cc to Mr.C.S.Associates, Advocate, S.R.No.81810

+1cc to Mr.N.Nithianandam, Advocate, S.R.No.81446

W.P.No.24076 of 2011

EV(CO)

rrs 07/01/2019