

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2018

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.22926 and 22927 of 2015

Smt.Motcharakkini Mary

.. Petitioner in both WPs

Vs

- 1.The Chief Manager (HR/HO),
Corporation Office,
Neyveli Lignite Corporation,
Neyveli Township & Neyveli.
- 2.The Additional Chief Manager/S&FS,
Disciplinary Authority,
Neyveli Lignite Corporation,
Neyveli. ... Respondents in W.P.No.22926/15
1. The Chief Manager (HR/HO),
Corporation Office,
Neyveli Lignite Corporation,
Neyveli Township & Neyveli.
2. The Complaints Committee,
Neyveli Lignite Corporation Ltd.,
Neyveli Township & Neyveli.
- 3.Mr.Srinivasan, A.O.
- 4.Mr.Jayakumar .. Respondents in W.P.No.22927/15

Prayer in W.P.No.22926/2015: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records pertaining to the impugned Memo No.S &FS/Disc./A-VIII/449-20/2015, dated 23.06.2015 issued by the second respondent and quash the same and consequently to direct the respondents to allow the petitioner to join the duty pending enquiry.

Prayer in W.P.No.22927/2015: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus to direct the respondents 1 and 2 to take necessary action against the respondents 3 and 4 and protect the petitioner's right and peaceful employment.

For petitioner in both WPs : Mr.P.Vijendran
For Respondents in
W.P.No.22926/15 : Mr.FB.Benjamin George
For R1 to R3 in
W.P.No.22927/158 : Mr.FB.Benjamin George
For R4 : No Appearance

COMMON ORDER

W.P.No.22926 of 2015 has been filed by the petitioner challenging the impugned proceedings dated 23.06.2015 passed by the second respondent / the Additional Chief Manager/S&FS, Disciplinary Authority, Neyveli Lignite Corporation, Neyveli, placing her under suspension.

2. W.P.No.22927 of 2015 has been filed by the petitioner seeking a direction to the respondents 1 and 2 to take necessary action against the respondents 3 and 4 and protect her right and peaceful employment.

3. It is seen that at the time of admission, this Court, while ordering notice to the respondents, has passed an order of interim stay against the impugned order of suspension, vide its order dated 29.07.2015, passed in M.P.No.1 of 2015 in W.P.No.22926 of 2015.

4. It is stated by the learned counsel for the respondents that pursuant to the order of interim stay, the petitioner has been reinstated in the services of the respondents and since then, she has been working continuously. It is also further stated that pending this writ petition challenging the suspension order, the respondents would not be in a position to proceed with the enquiry and pass final orders, therefore, he pleaded for closing the writ petition. It is further stated that as the petitioner is going to retire on 30.04.2018 on reaching the age superannuation, respondents would complete the pending disciplinary proceedings against the petitioner on or before 15.04.2018.

5. With regard to the facts of the case, it is also submitted by the learned standing counsel appearing for the respondent/Neyveli Lignite Corporation (NLC) that the petitioner is a habitual complainant and if any higher authority gives instruction to her, she immediately makes a complaint against the said officer. Likewise, on 23.06.2015, the petitioner, ignoring her position that she is only working as Typist, directly made a complaint against her immediate superior officer

/ Mr.Srinivasan, Chief Manager, stating that he has misbehaved with her and thereafter, on receipt of the complaint given by the said Srinivasan and other fellow officers, she was placed under suspension. It is further submitted that after the impugned suspension order, she has lodged a complaint for sexual harassment against the said Srinivasan and other officers . However, the said complaint was referred before the Committee for Prohibition of Sexual Harassment of Working Women in Neyveli Lignite Corporation Limited and the said Committee had also issued a notice dated 02.12.2015 asking her to file a complaint (six copies along with the supporting documents) properly explaining about the sexual harassment said to have been faced by her with the details of the respondents, their designation, addresses along with the details of the witnesses if any, along with their detailed addresses, on or before 18.12.2015, with the Secretary of the Committee (Chief Manager/Legal, Legal Section, Corporate Office, Neyveli). Despite the said notice, he pleaded, she never turned up for the enquiry nor filed any documents, which shows that she has made only a false complaint.

6. Be that as it may, since the above said issues narrated by the learned standing counsel for the NLC are disputed question of facts, this Court is not inclined to delve into such disputed question of facts and triable issues as raised by the petitioner as well as the respondent NLC in the present petition. The petitioner is at liberty to raise all her contentions, which have been raised before this Court before the said Committee.

7. Therefore, in the interest of both the parties, this Court is of the considered view that after her retirement i.e. on 30.04.2018, it is not possible for the respondent NLC to place the petitioner under suspension, hence, the writ petition No.22926 of 2015 filed by the petitioner challenging the suspension order is closed directing the respondents to conclude the pending disciplinary proceedings against the petitioner on or before 15.04.2018 on merits and in accordance with law. The petitioner is also directed to cooperate with the enquiry. Consequently, W.P.No.22927 of 2015 filed by the petitioner seeking to take action the respondents 3 and 4 is dismissed. No Costs. M.P.No.1 of 2015 is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

rkm

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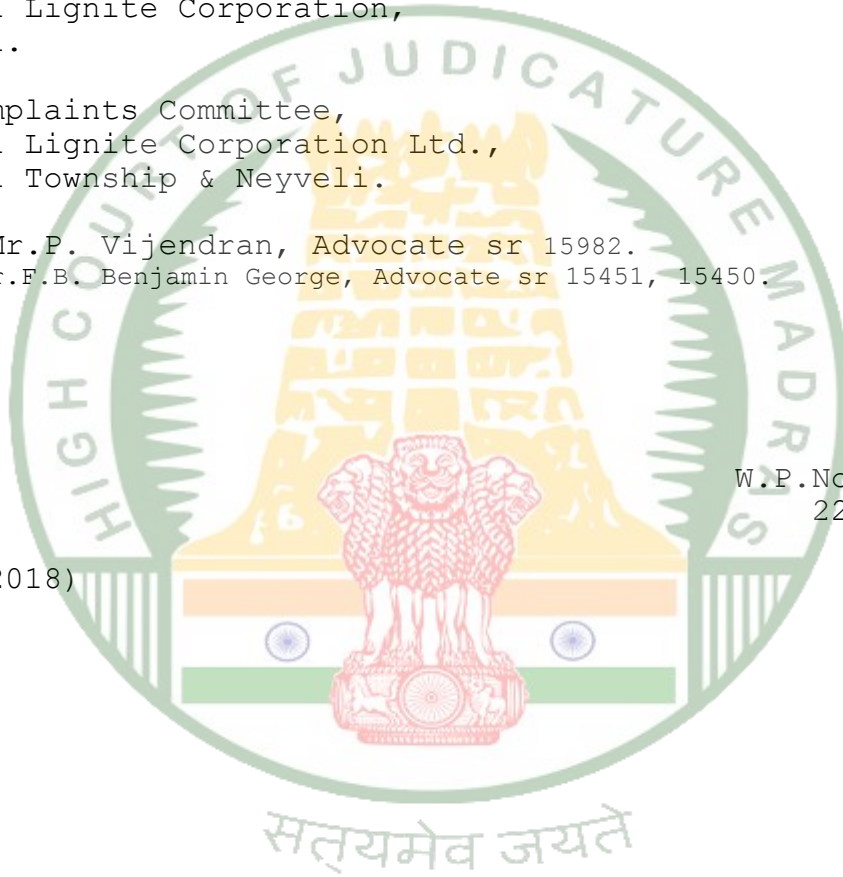
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3. The Complaints Committee,
Neyveli Lignite Corporation Ltd.,
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+1 CC to Mr.P. Vijendran, Advocate sr 15982.

+2 Ccs to Mr.F.B. Benjamin George, Advocate sr 15451, 15450.

W.P.Nos.22926 and
22927 of 2015

SP(08/03/2018)



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