

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.05.2018

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.12813 & 12814 of 2018 and
W.M.P.Nos.15042 & 15043 of 2018

1.Thanikachalam ... Petitioner in W.P.No.12813 of 2018
2.S.Ramalingam ... Petitioner in W.P.No.12814 of 2018

-Vs-

The Chief Manager / TBS/M-1,
Disciplinary Authority,
NLC India Limited,
Neyveli,
Cuddalore District.

... Respondents in both W.Ps

Prayer in both W.Ps : Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned show cause notices dated 28.04.2018 issued by the respondent in his office Ref: PSC No.MI/HR/DAC/278-139/2009 and Ref: PSC No.MI/HR/DAC/278-138/2009, proposing to imposing the major punishment of removal from service and quash the same.

For Petitioners : Mr.P.Mani

C O M M O N O R D E R

Heard the learned counsel for the petitioner.

2. The petitioners have approached this Court, seeking the following relief:-

"To issue a Writ of Certiorari, to call for the records relating to the impugned show cause notices dated 28.04.2018 issued by the respondent in his office Ref: PSC No.MI/HR/DAC/278-139/2009 and Ref: PSC No.MI/HR/DAC/278-138/2009, proposing to imposing the major punishment of removal from service and quash the same."

3. The case of the petitioners is as follows:-

The petitioners were working as Technician Grade- I and Technician Grade - III respectively, Mine -1 in Neyveli Lignite Corporation India Limited. The petitioners were suspended from

service by order dated 02.12.2011 based on the charge memo issued on 02.07.2009 and the petitioners submitted their explanations on 16.07.2009 and 20.07.2009 respectively. However, no enquiry was conducted.

4. Earlier, an FIR was filed against the petitioners and four others in Crime No.103 of 2009, under Section 306 of IPC. The petitioners and others were convicted by the Additional District and Sessions Court, Virudhachalam, in S.C.No.193 of 2010 and sentencing them to undergo seven years rigorous imprisonment and pay a fine of Rs.10,000/- each, by judgment dated 29.11.2011.

5. The petitioners and others filed an appeal before this Court in C.A.No.776 of 2011 on 30.11.2011 as against the order of conviction passed by the Additional District and Sessions Court, Virudhachalam. The appeal has been admitted on 02.12.2011 and the same is still pending. In the said Criminal Appeal, this Court was pleased to suspend the sentence alone. Since the appeal is pending before this Court, the respondent has not proceeded with the disciplinary proceedings for the past six years.

6. That being the case, the petitioners have been issued with the show cause notice dated 28.04.2018, wherein, it was stated that as per the certified standing order 47(3), notwithstanding anything contained in the standing order, where a workman has been convicted by a Court of Law for an offence involving moral turpitude, the workman may be removed or dismissed from service without following the procedure laid down in the standing order. For the commission of above misconduct of criminal offence, the Disciplinary Authority is proposed to impose the punishment of removal from services against the petitioners by invoking Clause 47(3) of the certified standing orders. The petitioners were given last opportunity to make their representation, if any, on the penalty proposed, within a period of seven days from the date of receipt of the memo, failing which, the matter will be decided and appropriate orders will be passed on merits. The petitioners aggrieved by the said memo dated 28.04.2018, approached this Court, by filing the present writ petitions.

7. In fact, the criminal proceedings are entirely different and the Department has every power to continue the departmental proceedings against the delinquent/employee as per the standing orders and memo in PSC.No.MI/HR/DAC/278-138/2009 dated 28.04.2018 of Neyveli Lignite Corporation of India Limited. The petitioners are at liberty to give their explanations before the authorities and the petitioners seek further time of four weeks, since the period granted by the respondent NLC is expired.

8. Under these circumstances, this Court is of the view that another opportunity to be given to the petitioners to make their representation/ explanation within a period of 21 days from the date of receipt of a copy of this order.

9. With the above direction, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

gsk/sgl

To

The Chief Manager / TBS/M-1,
Disciplinary Authority,
NLC India Limited,
Neyveli,
Cuddalore District.

+2cc to M/s.N.Nithianandam, Advocate in sr.no.34137,34138

+2cc to M/s.P.Mani, Advocate sr.no.33971,33970

W.P.Nos.12813 & 12814 of 2018

mr(co)
nr 28/05/2018

सत्यमेव जयते

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