

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.33455 and 33471 of 2018
and W.M.P.No.38824 of 2018

G.Rethinam

.... Petitioner in both the W.Ps

Vs

- 1.The Chairman (CMD)
Tamilnadu Generation & Distribution
Corporation (TANGEDCO) Limited
Tamilnadu Electricity Board Limited
Chennai.
- 2.The Chief Engineer (Personnel)
VIII Floor, NPKRR Maligai, Tamilnadu
Electricity Board, No.800, Anna Salai
Chennai 600 002.
- 3.The Director, Finance,
Tamilnadu Generation & Distribution
Corporation (TANGEDCO) Limited
Tamilnadu Electricity Board Limited
10th Floor, Anna Salai, Chennai.
- 4.The Chief Engineer (Distribution), Trichy Region
Tamilnadu Generation & Distribution
Corporation (TANGEDCO) Limited, Trichy.
- 5.The Superintending Engineer
Perambalur Electricity & Distribution
Circle, Tamilnadu Generation & Distribution
Corporation (TANGEDCO) Limited, Perambalur.
- 6.The Executive Engineer, Operation & Maintenance
Tamilnadu Generation & Distribution
Corporation (TANGEDCO) Limited, Ariyalur.
.. R1 to R6 in both the W.Ps.
7. Additional Chief Engineer, Trichy EDC/North/Trichy
Tamil Nadu Electricity Distribution Circle, Trichy.
.. R7 in W.P.No.33455 of 2018

7. Personnel Officer, Disciplinary Proceedings Service
Regulations, VIII Floor, NPKRR Maaligai, No.144
Anna Salai, Chennai - 600 002.

.... R7 in W.P.No.33471 of 2018

For Petitioner : M/s.A.Amalraj
For Respondents : Mr.P.R.Dhilip Kumar, Standing Counsel

Prayer in W.P.No.33455 / 2018 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records of the respondents especially the Additional Chief Engineer, TNEB, Trichy, made in Memo No.499/015473/ADM-4/A.1/F.DVAC/2006 dated 28.8.2006, the order of retention in service without allowing to retire on attaining the age of superannuation and quash the same as null and void illegal and invalid.

Prayer in W.P.No.33471 / 2018 : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus calling for the records of the respondents especially the 6th respondent relating to the proceedings made in Memo No.774/EE/OandM/AYR/Adm/A1/F.DP/2005 dated 20.9.2005, the order of suspension and quash the same as null and void, illegal and invalid and consequently directing the respondents 1,2,3 to 7 to issue paper order for reinstatement reinstating the petitioner in service as Revenue Supervisor with all attendant benefits apart from regularizing the suspension period from 20.09.2005 to 31.08.2006, the date of retirement on superannuation as duty period for all purposes disbursing the difference in his scale of pay, retiral benefits with full pension from September 2006 and arrears of pension from September 2006 upto date of disbursement of regular pension with interest at the rate of 12% per annum together with Rs.10,00,000/- towards compensation and forward such proposal before the 3rd respondent for implementation.

C O M M O N O R D E R

Petitioner herein was arrested on 19.09.2005 by the Vigilance and Anti Corruption Officials on the allegation of demand and acceptance of Rs.50/- as bribe and thereafter he was placed under suspension by the order dated 20.09.2005. Subsequently, a criminal case in S.C.No.9 of 2012 was filed against the petitioner. The trial Court found the petitioner not guilty and the petitioner was acquitted, by the judgment dated 06.06.2017.

2. By the proceedings dated 20.08.2006, the petitioner was not permitted to retire. The writ petitions are filed seeking to quash the suspension order dated 20.09.2005 and the order dated

20.08.2006 not permitting the petitioner to retire from service.

3. Learned counsel for the petitioner would submit that persons equally placed should be treated equally and the respondents have chosen to revoke the order of suspension in respect of one S.Muruganandam, Assistant Engineer, who was also suspended in respect of the very same case but he alone has been ordered to be reinstated into service. Learned counsel further submits that the said Muruganandam has joined duty on 30.12.2017 and the suspension period has also been regularised as duty period. In respect of this petitioner alone, the order of suspension has not been revoked and that has made the petitioner to approach this Court, seeking the revocation of suspension. The grievance expressed by the petitioner is that, after the order of acquittal, there is no justification to keep the petitioner under suspension.

4. Mr.P.R.Dhilip Kumar, learned Standing Counsel for TANGEDCO takes notice on behalf of the respondents.

5. Even though the acquittal order has been passed way back in the year 2017, no steps have been taken by the respondents to revoke the suspension order of the petitioner. The order of acquittal dated 06.06.2017 passed by the Chief Judicial Magistrate / Special Judge at Ariyalur in S.C.No.9 of 2012 reads as follows,

"In the result, this Court is of the view that A1 and A2 are not found guilty under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 and A3 is not guilty under Section 201 of IPC, and acquitting them under Section 248(1) of Cr.P.C."

6. In the light of the judgment dated 06.06.2017, acquitting the petitioner, who was arrayed as A2 in the said criminal proceedings, the respondents ought to have passed similar order dated 04.05.2018 as passed in the case of Muruganandam, who was arrayed as A1 in the same criminal proceedings, with respect to the petitioner also, as the allegations against both of them were one and the same.

7. Hence, considering the facts and circumstances of the case, the order of suspension dated 20.09.2005 and the order of retention dated 28.8.2016, not allowing the petitioner to retire on attaining the age of superannuation, are hereby directed to be revoked. The respondents are directed to pass similar order as passed in the case of one Muruganandam, in respect of the petitioner also, granting reinstatement into service, with all attendant benefits apart from regularizing the suspension period from 20.09.2005 to 31.08.2006, (the date of retirement on superannuation) as duty period for all purposes disbursing the

difference in his scale of pay, retiral benefits with full pension from September 2006 and arrears of pension from September 2006 upto date of disbursement of regular pension, if he is otherwise found eligible. The writ petitions are disposed of accordingly. No costs. Consequently, Connected W.M.P.is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

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8. Additional Chief Engineer, Trichy EDC/North/Trichy
Tamil Nadu Electricity Distribution Circle, Trichy.

9. The Chief Judicial Magistrate / Special Judge
Ariyalur.

+2cc to Mr.A.Amalraj, Advocate SR.No.88502

W.P.Nos.33455 & 33471 of 2018

KK(CO)
GMY(22/01/2019)



18.12.2018

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