



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.A. (MD) No. 731 of 2018
and
C.M.P. (MD) No. 4296 of 2018

R. Kumar

... Appellant/Petitioner

-vs-

1. The Superintending Engineer,
Tamil Nadu Electricity Distribution Circle,
TANGEDCO,
Thanjavur.

2. The Assistant Executive Engineer,
Special Maintenance,
Tamil Nadu Electricity Distribution Circle,
TANGEDCO,
Thanjavur.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order made in W.P. (MD) No. 371 of 2013 dated 26.02.2018 by this Court.

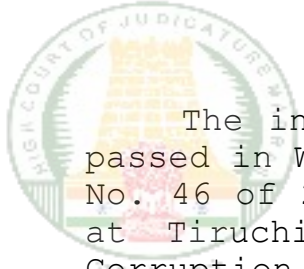
Prayer in WP(MD). 371/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the impugned charge memo in Ku.Aa.No.703/Vu.Ni.A/Ni.Me/Nipi.5/Ni.Vu1/Ko.O.Na.2012 dated 21.11.2012 passed by the 1st respondent and quash the same

For Appellant	:	Mr. G. Karnan
For Respondents	:	Mrs. S. Srimathy

J U D G M E N T

<https://hcservices.ecourts.gov.in/hcservices/>
(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)



The intra-Court Appeal arises out of an order dated 26.02.2018 passed in W.P. (MD) No. 371 of 2013. A criminal case in Special C.C. No. 46 of 2012 on the file of the Special Court for Anti-Corruption at Tiruchirappalli, was registered by the Vigilance and Anti-Corruption Wing, Thanjavur under the provisions of the Prevention of Corruption Act, 1988, against the Appellant, who was employed as Commercial Assistant in the office of the Second Respondent, viz., Assistant Executive Engineer, TANGEDCO, Thanjavur. After that criminal case ended in his acquittal on 28.03.2012, a charge memo was issued by the First Respondent, viz., the Superintending Engineer, TANGEDCO, Thanjavur, by proceedings in Ku. Aa. No. 703/Vu.Ni.A./Ni.Me./Nipi.5/Ni.Vu.1/Ko.O.Na./2012 dated 21.11.2012 in respect of the same incident. The Appellant filed W.P. (MD) No. 371 of 2013 challenging the said charge memo on the ground of delay of more than 8 years in issuing the same.

2. The Learned Judge in the order dated 26.02.2018 passed in that Writ Petition arrived at a factual finding that the charge memo had been issued after waiting for the criminal prosecution to be completed, and by elaborately referring to the legal decisions of the Hon'ble Supreme Court of India, governing the issue, has refused to interfere in the matter.

3. We have heard Mr. G. Karnan, Learned Counsel for the Appellant and Mrs. S. Srimathy, Learned Counsel for the Respondents and perused the materials placed on record apart from the pleadings of the parties.

4. Learned Counsel for the Appellant vehemently contended that inasmuch as the criminal prosecution had ended in the acquittal of the Appellant, there was no justification to initiate the disciplinary proceedings in respect of the same incident against the Appellant.

4. It is not in dispute that the acquittal of the Appellant in the criminal prosecution was only due to extending him the benefit of doubt, and it was not an honourable acquittal to exonerate him from the culpability of the offences. The legal position has been reiterated by the Hon'ble Supreme Court of India in a series of judgments including those in **Commissioner of Police, New Delhi -vs- Narender Singh** [(2006) 4 SCC 265], **Jaswant Singh -vs- Union of India** (Order dated 16.07.2008 in C.A. No. 4558 of 2008), **Deputy Inspector General of Police -vs- S. Samuthiram** [(2013) 1 SCC 598] and **State of West Bengal -vs- Sankar Ghosh** [(2014) 3 SCC 610] that disciplinary proceedings cannot be stalled when there has not been any honourable acquittal of the delinquent employee in the criminal prosecution.

5. In such circumstances, apart from concurring with the views of the Learned Judge, we are unable to countenance the submissions made by the Learned Counsel for the Appellant in the Appeal for the aforesaid reasons. Resultantly, the Writ Appeal is dismissed. The Respondents shall ensure that the disciplinary proceedings against



the Appellant are expeditiously concluded without brooking any further delay in the matter and a report of such compliance shall be filed before the Registrar (Judicial) of this Court by 30.04.2019. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CO)

Sub Assistant Registrar(CS-II)

To

1. The Superintending Engineer,
Tamil Nadu Electricity Distribution Circle,
TANGEDCO,
Thanjavur.
2. The Assistant Executive Engineer,
Special Maintenance,
Tamil Nadu Electricity Distribution Circle,
TANGEDCO,
Thanjavur.

Copy To

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

- 1 CC TO Mr.M/s.JOHN BASHA , ADVOCATE IN SR No. 99901.
- 1 CC TO Mr.G.KARNAN , ADVOCATE IN SR No.10001.
-

VJT

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