



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.4712 of 2011
and
MP(MD)No.1 of 2011

P.Rameshwari ... Petitioner
Vs.

1.The Chief Engineer (Distribution),
Madurai Region,
TANGEDCO,
K.Pudur, Madurai - 7.

2.The Superintending Engineer,
MEDC, Madurai,
K.Pudur, Madurai - 7.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the order Ku.No.22181/633/D.1/2011-1, dated 09.02.2011 issued by the first respondent and quash the same.

For Petitioner : Mr.I.Irulappan

For Respondents : Mr.S.Dhayalan

ORDER

The suo-motu review notice issued by the first respondent dated 09.02.2011 is under challenge in this writ petition.

2.The learned Counsel for the writ petitioner made submissions that the writ petitioner was initially appointed as an Assistant Engineer in Tamil Nadu Electricity Board and further promoted to the post of Assistant Executive Engineer in the year 1998. On account of certain allegations, disciplinary proceedings were initiated against the writ petitioner and after conducting enquiry, all the disciplinary proceedings initiated against the writ petitioner had been dropped in proceedings dated 29.04.2010. In other words, the writ petitioner was exonerated from the charges.

3.This being, the position, the first respondent issued legal notice initiating suo-motu review against the order of exoneration dated 29.04.2010. The learned Counsel for the writ petitioner cited



Rule 25 (1) Sub clause (ii) of the Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations, which reads as follows:-

" (ii) the appellate authority, within six months of the dated of the order proposed to be reviewed, may, on its/his own motion call for the records of any inquiry and review any order made under these regulations, and may confirm or enhance the penalty imposed by the order, or impose any penalty where no penalty has been imposed.

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the employee concerned has been given a reasonable opportunity of making representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (iii), (iv) (c) (v) (vi) and (vii) of regulation 5 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in sub-regulation (b) of regulation 8".

The Rule categorically enumerates that the appellate authority is empowered to initiate suo-motu review within a period of six months from the date of the order sought to be reviewed. Further the rule states that no such time limit is applicable as far as the Board and Chairman are concerned.

4.Thus, power of suo-motu review in respect of the first respondent in this writ petition, can only be exercised within a period of six months from the date of passing of the order. Admittedly, the order dropping the charges against the writ petitioner was issued on 29.04.2010 and the suo-motu review notice was issued on 09.02.2011 after a lapse of about 6 months. This being the factum of the case, the impugned notice is directly in violation of the provisions of the Tamil Nadu Electricity Board Employees Discipline and Appeal Regulations cited supra.

5.In view of this fact, the impugned order issued by the first respondent in proceedings Ku.No.22181/633/D1/2011-1, dated 09.02.2011 is quashed and the writ petition stands allowed. However, there shall be no orders as to costs. Consequently, MP(MD)No.1 of 2011 is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1.The Chief Engineer (Distribution),
Madurai Region, TANGEDCO,
K.Pudur, Madurai - 7.



2.The Superintending Engineer,
MEDC, Madurai,
K.Pudur, Madurai - 7.

+1cc to M/S.I.Irulappan, Advocate SR.No. 45730

ORDER MADE IN
W.P (MD) No.4712 of 2011
01.02.2018

dsk
JM/KK/SAR 1/23.02.2018/3P/4C