



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 06.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.9774 of 2004

U.Gladson

...Petitioner

V.

1.The Chairman,
Tamil Nadu Electricity Board,
Chennai-600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Chennai-600 002.

3.The Chief Engineer (Distribution)
Tirunelveli Region,
Tamil Nadu Electricity Board,
Tirunelveli-11.

4.The Superintendent Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirunelveli-11.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the third respondent order in Ka.Aa.No.17703/732/NiPi/D2/2003-2 dated 02.01.2004 confirming the fourth respondent order in Memo No.19343/648/NiPi.4/Udavi/2003 dated 25.07.2003 and to quash the same and consequently direct the respondents to grant promotion to the petitioner as Inspector of Assessment with effect from 11.12.2002.

For Petitioner : Mr.J.Saravana Vel

For Respondents: Mr.P.R.Dhilip Kumar

O R D E R

The punishment of censure imposed on the petitioner by the fourth respondent herein on 25.07.2003, as confirmed in the Appeal by the third respondent herein on 02.01.2004, is under challenge in the present Writ Petition.



2. Heard Mr.J.Saravana Vel, learned counsel for the petitioner and Mr.P.R.Dhilip Kumar, learned Standing Counsel for the respondents.

WEB COPY

3. The brief facts of the case is as follows:

The petitioner herein was originally appointed as an Assessor in the year 1987 under the Tamil Nadu Electricity Board. On 26.03.2002, a charge memo was issued to the petitioner herein by the fourth respondent charging him of having received illegal gratification from consumers, who have applied for new electricity connections. Not being satisfied with the petitioner's reply to the charge memo, an enquiry came to be conducted and the Enquiry Officer had given a finding that the charges against the petitioner was not proved. However, not being satisfied with the report of the Enquiry Officer, the fourth respondent issued a notice to the petitioner proposing punishment of censure on 20.05.2003. The petitioner's reply dated 16.06.2003 was rejected and by impugned order dated 25.07.2003, the fourth respondent had imposed the punishment of censure. As against the same, the petitioner herein had filed an appeal before the third respondent, which also came to be rejected on 02.01.2004, confirming the punishment of censure imposed by the fourth respondent. These orders are under challenge in the present Writ Petition.

4. The learned counsel for the petitioner submitted that the fourth respondent has no jurisdiction to differ with the findings of the Enquiry Officer. According to the learned counsel, the Standing Orders pertaining to workmen and clerical departments, does not authorize the fourth respondent to differ with the findings of the Enquiry Officer. He would also further submit that the original order of the fourth respondent is in violation of principles of natural justice, since no opportunity was given to the petitioner to put forth his case before the fourth respondent.

5. The learned Standing counsel for the respondents, on the other hand submitted that, the charges against the petitioner are grievous in nature, since the same pertains to receiving of illegal gratification. The learned counsel would submit that when there was ample evidence before the Enquiry Officer that the petitioner herein had received illegal gratification, there was no necessity to absolve the petitioner from the charges. In view of the evidences available before the Enquiry Officer to establish that the charges are proved, the fourth respondent herein had rightly differed with the findings of the Enquiry Officer and impose the punishment of Censure, which was also rightly confirmed in the appeal by the third respondent herein.



6. I have given careful consideration to the submissions made by the respective counsels.

8. The fourth respondent herein having taken into note of the statement of these three witnesses, had issued a notice to the petitioner herein calling upon him to render his explanation as to why the punishment of censure could not be imposed. The petitioner had also submitted his reply, which came to be duly considered and rejected and thereby, minimum punishment of censure was ordered.

<https://hcservices.ecourts.gov.in/hcservices/>



10. The next submission of the learned counsel is that the order of the fourth respondent is in violation of principles of natural justice is again unacceptable. When the fourth respondent was of the view that he intends to differ from the Enquiry Officer's findings, he had chosen to issue a show cause notice dated 20.05.2003, to which the petitioner herein had also given his reply. The impugned order of the fourth respondent dated 25.07.2003 also takes into consideration the objections given by the petitioner to the show cause notice. Taking into account that the punishment thereafter was one of censure, this Court is of the view that the show cause notice to differ from the findings of the Enquiry Officer, would amount to sufficient opportunity extended to the petitioner and hence, it cannot be said to be in violation of principles of natural justice.

11. When three of the witnesses before the Enquiry Officer had deposed that the petitioner had received illegal gratification, which came to be overlooked by the Enquiry Officer, there was no infirmity on the part of the fourth respondent to differ with such findings and consequentially impose the punishment of censure. As a result, the order of the third respondent herein, confirming the punishment imposed by the fourth respondent, does not suffer from any illegality. In the result, I do not find any reason to interfere with the punishment of censure imposed against the petitioner. Hence the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Chairman,
Tamil Nadu Electricity Board,
Chennai-600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
Chennai-600 002.



3.The Chief Engineer (Distribution)
Tirunelveli Region,
Tamil Nadu Electricity Board,
Tirunelveli-11.

4.The Superintendent Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirunelveli-11.

+1cc to Mr.J.Saravana Vel, Advocate sr.9973
+1cc to Mr.P.R.Dhilip Kumar, Advocate sr.10635

W.P.No.9774 of 2004

ev(co)
nr 08/08/2019