

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No1710 of 2018

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation
TANGEDCO, 144 Anna Salai,
Chennai- 600 002.

2. The Superintending Engineer,
TANGEDCO,
Udumalpet Electricity Distribution Circle,
Udumalpet.

3. The Chief Engineer/Distribution,
TANGEDCO, Coimbatore.

...Appellants/ Respondents

.Vs.

V. Murugesan

...Respondent/ Petitioner

Prayer : Writ Appeal is filed under clause 15 of the Letters Patent praying to set aside the impugned order dated 04.06.2018 made in W.P.No.26 of 2018 and pass any such further orders.

Prayer in W.P.No.26 of 2018 :- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in memo No. 0004552/276/ AB-2/ Asst (3)/ FILE.D.P/ 2017-2 dated 22.04.2017 and quash the proceedings dated 22.04.2017 as against the petitioner and consequently direct the Respondents to restore the status of the petitioner prior to issuance of charge memo dated 22.04.2017 by posting the petitioner at Dharapuram Rural section.

For Appellants : Mr. M. Venkatesan
for Mr. P. R. Dhilipkumkar

For Respondent : Mr. R. Syed Mustafa

J U D G M E N T

(Judgment of the Court was delivered by P.T.ASHA, J)

The intra court appeal is at the behest of the TANGEDCO, and the challenge is to the order dated 4.06.2018 in W.P.No.26 of 2018.

2. The facts in a nutshell shorn of the details are as follows:-

The respondent had filed the writ petition in question seeking to quash the memo dated 22.04.2017 of the third respondent and the consequential proceedings instituted against him, and direct the appellants herein to restore his status prior to the issuance of the charge memo dated 22.04.2017, by posting him at Dharapuram Rural Station.

3. The appellant would submit that it was the case of the respondent that he was subjected to frequent transfers, which constrained him to file a writ petition in W.P.No.15853 of 2015 challenging the order dated 06.05.2015 transferring him from Dharapuram Rural Station to Lines Station/Hills area/ Pollachi. The respondent continued at Dharapuram on the strength of an interim order granted by this court on 05.06.2015.

4. The respondent would submit that since he had approached the court, the second appellant had issued a suspension order dated 1.12.2016 even without serving a charge memo.

5. The respondent was once again forced to approach this court by filing W.P.No.43924 of 2016 and he was thereafter reinstated by the second appellant by revoking the suspension order. Thereafter, the respondent was posted at Kundadam sub station, where he had joined duty.

6. On 22.04.2017, the third appellant issued a charge memo invoking Rule 8 (b) of the Board (Disciplinary and Appeal) Rules. The charges which were levelled against him was that while working as a Junior Engineer Grade I at Dharapuram, he had failed to supervise and inspect the employees working under him as a result of which one S.Senthilvel, Assessor had misappropriated a huge amount of Rs.5,95,646. By reason of the respondent's lethargic attitude, the Board had suffered a huge loss.

7. The respondent would submit that he is in no way responsible for supervising the said Assessor and it is the duty of the Revenue Supervisor of the concerned section to inspect the records and receipts periodically and reconcile the amounts collected from the customers. That apart, the said S.Senthilvel had deposited the entire amount misappropriated by him. The suspension order issued to the respondent and the charges issued to him is made with a sole motive to transfer the respondent out of Dharapuram. Though the respondent had requested the third appellant to drop the action, as he was in no way connected with the allegations made against him, the charge was not dropped.

8. The respondent would contend that in view of the pendency of the charges, his name is not being included in the promotion panel. Since the charge memo was without any basis, the respondent was constrained to file the writ petition.

9. The appellants have filed a counter affidavit before the Writ Court in which it was contended that several petitions have been received from the public against the respondent and therefore action had been initiated against him pursuant to which he was awarded a punishment of postponement of his next annual increment for a period of 6 months without cumulative effect. The appellants would contend that the present proceedings against the respondent was on account of the fact that he was responsible for ensuring the collection of the amounts and its proper remittance. The appellants treated the respondent as a Section officer and it is on that basis, the charge memo had been issued to him.

10. The learned single Judge by order 04.06.2018 was pleased to allow the writ petition by observing that the respondent who is a Junior Engineer Grade I was not entrusted the duty or responsibility to oversee the work of assessors or any other staff in the revenue unit of the section as this duty solely vests with the Revenue Supervisor. The learned Single Judge has also observed that the charge memo was based on vague charges and on this ground had allowed the writ petition imposing a cost of Rs.25,000/- on the third appellant. Challenging the said order the TANGEDCO is before this Court.

11. Heard the counsels on either side.

12. A perusal of the revenue manual of the appellants would indicate that it is the Revenue Supervisor who is

responsible for the cash custody and would be under the administrative control of the Section Officer. It is the duty of the Revenue Supervisor to cross check the cash collected by the Assessors/Inspectors of Assessment ensuring its deposit into the banks and cheque realisation and also to check the collections made by the assessors. The Revenue Supervisor was placed under the control of Section Officer.

13. The respondent is a Junior Engineer Grade I and is not a Section Officer as contended by the appellants. Therefore the very basis of the charge memo fails. The only ground on which the appellants have held the respondent responsible and liable is on the ground that as a Section Officer he was responsible for the acts of Assessors. This in our opinion, is fallacious.

14. We do not find any error or infirmity in the order passed by the learned Single Judge on merits. However, we set aside the order directing the appellant to pay cost. Accordingly, the Intra Court Appeal challenging the order quashing the charge memo is dismissed. No costs.

mrn

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation
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2. The Superintending Engineer,
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TANGEDCO, Coimbatore.

+1cc to Mr.R.Syed Mustafa, Advocate, SR.No.76299

W.A.No.1710 of 2018

Kak (09/10/2019)