



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.5325 of 2011

and

M.P. (MD) .No.1 of 2011

and

W.M.P. (MD) .No.15917 of 2017

J.Premalatha

... Petitioner

Vs.

1.The Chief Engineer/Distribution
TANGEDCO, K.Pudur,
Madurai-7.

2.Superintending Engineer,
Madurai Electricity Distribution Circle,
Metro, K.Pudur,
Madurai-7.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 12.04.2011 passed by the first respondent in Memo No.001972/49/D3/2011-1 confirming the order dated 21.12.2010 passed by the second respondent in Memo No.441-2/உநஅ/நிபி2.உ4/கோ.8(எ)/2010 and quash the same.

For Petitioner : Mr.I.Irulappan

For Respondents : Mr.S.Dhayalan

Government Advocate

ORDER

The order of punishment imposed on the writ petitioner originally by the disciplinary authority and modified and reduced punishment issued by the Appellate Authority, are under challenge in the present writ petition.

2.The writ petitioner was working as an Assistant Executive Engineer in Meter and Relay Test/Metro, TANGEDCO, Madurai. The petitioner was sent on an official trip to Chennai and while returning back to Madurai through Podhigai Express at about 5.50 a.m., on 10.09.2010, the travel bag kept by the petitioner was found stolen. The writ petitioner kept his personal belongings as well as the MBT Sealing Plier and all those articles were missing. Immediately, the writ petitioner reported the matter to the Sub-Inspector of Police, Railway Police Station, Madurai and a receipt



was also issued on 10.09.2010 bearing C.S.R.No.2779308. However, on 29.09.2010, the police issued a Non-Traceable Certificate. The petitioner informed the same to the competent authorities.

3. In spite of these facts, the disciplinary proceedings have been initiated against the writ petitioner under Rule 8(a) of the Discipline and Appeal Rules. On receipt of the explanation from the writ petitioner, the petitioner was imposed with the punishment of stoppage of increment for one year without cumulative effect. The writ petitioner preferred an appeal to the first respondent/ Chief Engineer, who in turn modified the punishment by reducing the same to stoppage of increment for six months without cumulative effect. The said order is also under challenge.

4. The learned counsel appearing on behalf of the respondents states that the writ petitioner was on an official trip and he was entrusted with the Board file viz., MRT Sealing Plier. When the important instrument was missing, the respondents were bound to initiate appropriate action against the officials. The learned counsel for the respondents states that the writ petitioner, who was holding the post of Assistant Executive Engineer must be more cautious in maintaining and protecting the MRT Sealing Plier.

5. This Court is of the considered opinion that the fact remains that the writ petitioner was travelling in a train from Chennai to Madurai. Further, the fact reveals that the bag kept by the writ petitioner in the train was stolen during his travel. The writ petitioner promptly filed a police complaint with the Railway police. The case was closed as not traceable. Though it is an unfortunate event, the MRT Sealing Plier was unable to be recovered. On account of the fact that the Police Department had closed the criminal case. Under these circumstances, the entire event occurred beyond the control of the writ petitioner, for which, the writ petitioner cannot be penalized. Certain circumstances arising beyond the control of the officials cannot be held against them. The genuinity of the explanations are also to be considered. The writ petitioner submitted his explanation along with the documents stating that he travelled in the train by way of an official trip and the bag was stolen and the same was informed to the police. Immediately, a criminal case was also registered and closed as not traceable. This being the factum, imposing the punishment is undoubtedly unreasonable and unwarranted. The offence of theft occurred in a train cannot be a cause for imposing the punishment on a Government servant under the Discipline and Appeal Rules.

6. Under these circumstance, this Court is unable to accept the contentions raised on behalf of the respondents. The writ petitioner's claim deserves to be considered. Accordingly, the order passed by the second respondent in Memo No.441-2779308 dated 21.12.2010 as well as the appellate order passed by the first respondent in Memo



No.001972/49/D3/2011-1, dated 12.04.2011 are quashed.

7. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(T & P)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Chief Engineer/Distribution
TANDEDCO, K.Pudur,
Madurai-7.

2.Superintending Engineer,
Madurai Electricity Distribution Circle,
Metro, K.Pudur,
Madurai-7.

+1CC TO MR.T.ANTONY ARUL RAJ, Advocate Sr. No. 67977

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