IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.34822 of 2007

K.V.Sreenivasan ...Petitioner

.Vs.

1. The Chairman Cum Managing Director
   Neyveli Lignite Corporation Limited,
   Neyveli.

2. The Chief General Manager,
   Thermal Power Station II
   Neyveli Lignite Corporation Limited,
   Neyveli.

3. The Deputy General Manager (Finance),
   Thermal Power Station II,
   Neyveli Lignite Corporation Limited,
   Neyveli. ...Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order in Proc.No. CMD/112/2006, dated 14.09.2006, passed by the Chairman cum Managing Director, Neyveli Lignite Corporation Limited, Neyveli, first respondent herein modifying the order dated 04.07.2005 passed by the second respondent confirming the order dated 11.05.2005.

For Petitioner : Mr.G.Prabaharan
for Mr.A.V.Arun

For Respondents: Mr.N.Nithianandan

ORDER

This Writ Petition has been filed to challenging the order in Proc.No. CMD/112/2006, dated 14.09.2006, passed by the first respondent, modifying the order dated 04.07.2005 passed by the second respondent, confirming the order dated 11.05.2005.

2. Learned counsel for the petitioner would submit that the petitioner was working as a Senior Manager (Finance) in the Neyveli Lignite Corporation Limited (NLC). During the year 2002, bills for LTC (Leave Travel Concession) advance were submitted by the Executives claiming different rates admissible to them. The petitioner was then posted to the Department and on scrutiny of the bills with the Rules relating to LTC to the employees, it was found that the claims were not admissible under the Rules and he raised an office note to Rules Section of the Corporate office with regard to the passing of bills for LTC. Thereafter, on 10.07.2002, the Account Centre sent the note raising clarifications that the travel by tourist buses by Private Operators/Government Agencies, the admissible T.A. would be the amount actually paid to the organizer of the tour towards fees and the railways fares by the entitled class to the particular place and back to headquarters and the fares as above would be restricted to 1500 Kms each way. However, the executives performed LTC actual tour beyond 3000 Kms and claimed more than 80% advance LTC by the Corporate Rules Section. While passing the final bill, it was sought from the Rules Section whether to restrict the actual train fare beyond 3000 Kms or to accept the bill given by the tourist operators. Further, as per the rule upper age, full ticket will be from the age of 12 years but the bills have shown that the full tickets have been taken for the children below 12 years and whether it can be restricted to ½ ticket for children below 12 years. Thereafter, the bills were transmitted to P&A Mines I Section for clarification on the note put up by the petitioner and his Chief Manager sent the note to the Rules Section. When the clarification was pending with the Rules Section, on instructions from the Rule Sections only 80% of the advance payment was cleared as per the bills. It was informed to the petitioner that if there is no specific rate mentioned for half rate of the full ticket, fare may be granted for children below 12 years as per the rules and if there is a specific rate 75% or 50% as mentioned in the bill, may be admitted and also instructed to obtain a declaration from the employees that the fee charged by the tourist operator is pertaining to the fare only and does not pertain to boarding and lodging. Further, a circular was enclosed and instructed to admit the bills if stamped receipts were produced. Based on the instructions of the higher officials and clarification issued by the Rules Section, the bills were passed as claimed by the employees with regard to the LTC advance. During the pendency of the clarifications, the employees submitted their LTC bills with supportive documents being proof of journey. A number of clarifications sought for by the Finance Department with regard to settlement of bills and the bills were being kept in abeyance. Subsequently, the Corporate Office constituted a

committee to go into the special of LTC type - II regulating the LTC claims etc., based on certain guidelines received from the vigilance department. It was further advised that circular should be reviewed and action should be taken after the guidelines were received from the Corporate Office. Thereafter, the clarifications were issued by the Corporate Office agreeing with the note put up by the petitioner. The petitioner found the excess claim with regard to LTC bills and immediately the clarifications were sought from the Corporate Office. Subsequently, the petitioner received a charge memo from the General Manager, Civil & Tech/Mines, NLC framed with 8 charges against him and proposed disciplinary action against him. The petitioner had also given his explanation. A retired District and Sessions Judge was appointed as the Enquiry Officer. During the inquiry, no witness was examined on the side of the organization and only the copies of the bills were produced by the Enquiry Officer and thereby, inquiry was closed without giving any opportunity to the petitioner and without examining any witness. Subsequently, the Disciplinary Authority, the third respondent herein, issued a show cause notice dated 23.04.2005, requiring the petitioner to show cause as against the proposed punishment of dismissal from service or removal from service or compulsory retirement before attaining the age of superannuation, as the charges framed against him were proved. Therefore, in order to get less punishment, the petitioner accepted the charges framed against him. Subsequently, the petitioner was awarded the punishment of reduction of basic pay by two stages for a period of 2 years. Aggrieved by the said order, he filed an appeal before the second respondent and the second respondent by an order dated 04.07.2005, confirmed the order of the third respondent. Aggrieved over the said order, he further preferred an appeal to the first respondent and the first respondent vide order dated 14.09.2006, modified the punishment as reduction of basic pay by two stages for a period of one year. Challenging the said order, the petitioner has filed the present writ petition and the same shall be allowed.

3. Learned counsel appearing for the respondents would submit that the employees and NLC have claimed LTC over and above and against the regulations under the terms and conditions of the regulation, hence, the complaint. Subsequently, a C.B.I enquiry was conducted and it was found that the large number of LTC claims were processed and passed for payment of sums far in excess of the entitlement under the prevailing orders. He would further submit that the petitioner himself had accepted his lapses more than once and there is no scope for interfering with the penalty awarded which is neither disproportionate nor too harsh, therefore, the writ petition deserves to be dismissed.

4. Heard both sides and perused the materials placed on record.

5. Admittedly, the petitioner was working as a Senior Manager (Finance) and in the year 2002, bills for LTC advance were submitted by the executives claiming different rates admissible to them. As per the instructions from the Rules Section only 80% of the advance payment was cleared as per the bills. Subsequently, a charge memo was issued against the petitioner on 30.09.2004 and the retired District and Sessions Judge was appointed as an Enquiry Officer, who made a report and found the petitioner guilty of all the charges. Subsequently, issued a second show cause notice, calling upon the petitioner to give his explanation and the petitioner accepted all the charges leveled against him. Based on the report of the Enquiry Officer, the Disciplinary Authority passed the order punishment of reduction of basic pay by two stages for a period of two years. Aggrieved over the said order, the petitioner filed an appeal before the second respondent and the same was dismissed. The petitioner further preferred an appeal before the first respondent and the same was modified and the punishment was reduced to one year.

6. On a careful perusal of the records, it is clear that there is no violation of principles of natural justice and further, the fair opportunity was also given to the petitioner. The petitioner being a Finance Manager, should have returned or rejected the claim before seeking a clarification but without doing so, sought the clarification which itself shows that the petitioner was the one who has passed all the bills from the inquiry. Therefore, there is no merit in the writ petition.

7. In view of the above facts and circumstances of the case, this Writ Petition stands dismissed. No costs.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

1. The Chairman Cum Managing Director
   Neyveli Lignite Corporation Limited,
   Neyveli.

2. The Chief General Manager,
   Thermal Power Station II
   Neyveli Lignite Corporation Limited,
   Neyveli.

3. The Deputy General Manager (Finance),
   Thermal Power Station II,
   Neyveli Lignite Corporation Limited,
   Neyveli.

+1cc to Mr.N.Nithianandam, Advocate, Sr.No.39277
+1cc to Mr.A.V.Arun, Advocate, Sr.No.38984

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