

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.36104 of 2007

K.V. Sreenivasan

...Petitioner

Vs.

1. Neyveli Lignite Corporation Ltd.,  
Rep. By its Chairman-cum-Managing Director,  
Corporate Office, Block 1, Neyveli - 607801.
2. The Director (Personnel)  
Neyveli Lignite Corporation Ltd.,  
Corporate Office, Block-1,  
Neyveli - 607 801.

...Respondents

Prayer: Writ Petitions filed praying to issue Writs, Orders or Directions in particular issue a Writ in the nature of DECLARATION, declaring that the action of the respondents in not declaring the completion of probation w.e.f. 05.09.2003 and not sanctioning the petitioner annual increments from 01.06.2003, as illegal, arbitrary, and unjust and consequently direct the respondent to declare that the petitioner had completed his probation w.e.f. 05.09.2003 and release annual increments with effect from 01.06.2003, with arrears and all other consequential benefits, together with interest.

For Petitioner : Mr. L. Chandra Kumar  
For Respondents : Mr. N. Nithianandan

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O R D E R

This Writ petition has been filed challenging the non-declaration of completion of probation with effect from 05.09.2003 and non-sanction of the petitioner's annual increments from 01.06.2003.

2. The facts of the case are as follows:

The petitioner was an employee in the first respondent corporation. While the petitioner was working in the first respondent corporation, he was promoted as Manager (Finance) by

order dated 06.09.2002, with effect from 01.06.2001 and he was put on probation for one year with effect from the date of issue of order. During the probation period, ie. April, May, and July 2003, the Vigilance Department enquired the petitioner to clarify the procedure in settling the claims of L.T.C. type II. Accordingly, the petitioner clarified the issue appearing before them. In this regard, there was no adverse finding and report filed against the petitioner. While being so, the petitioner was not declared the completion of probation as on 05.09.2003 and the increment of the petitioner was also cut by the respondent corporation even though the petitioner has satisfied all the conditions as per the rules. In the meanwhile, the petitioner was issued a charge memo on 30.09.2004 directing him to submit explanation on the allegation for not properly interpreting the L.T.C. Type-II rules and passing of bills without verification. The petitioner submitted his explanation in October, 2004 denying the allegation stating that L.T.C. bills were passed in accordance with rules and as per the clarification issued by Corporate P&A Department. Subsequently, the enquiry officer was appointed to enquire the aforesaid issue and after enquiry, he found that the charges levelled against the petitioner was proved. Subsequently, the first respondent corporation sought for the explanation from the petitioner by issuing show cause notice. Due to unsatisfactory explanation, the petitioner was not declared as completion of probation period and imposed punishment of reduction of two increments for two years without cumulative effect, with effect from 11.05.2005. However, the completion of the probation was declared belatedly on 11.05.2006 by order dated 13.11.2006 and the said punishment was reduced and modified into one of reduction of pay by two increments for one year by an order dated 14.09.2006. Challenging the punishment for not declaring the completion of probation period and not sanctioning annual increments from the respective due dates, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that since the petitioner was promoted as Manager (Finance) by an order dated 06.09.2002, the probation period was completed on 05.09.2003. As per the rules, the respondent corporation would have declared the completion of probation on 05.09.2003 for the petitioner. However, the petitioner was declared his probation completion on 11.05.2006 only after a long period and imposed punishment of reduction of increments stating the reason that the petitioner was issued charge memo on 13.09.2004 on the allegation of misinterpreting the L.T.C Type -II and passing of bills without verification. Even after his proper explanation on the allegation in the enquiry, the respondent corporation did not consider the same in a proper manner and imposed the aforesaid punishment. It is further submitted that the similar complaint was charged against one Thiru. N. Muthu, who was

working as Chief Manager (Personnel) was selected for promotion to the post of DGM (Personnel) in July 2004. During his probation period, even though he was issued charge memo some time in 2005, his promotion was considered on the due date, but the respondent corporation did not consider the same in the case of petitioner even while it was identical issue. Hence, the action of the respondents is arbitrary and discriminatory and the same is liable to be set aside.

4. On the other hand, the learned counsel for the respondents would submit that there is no such discrimination followed in the case of the petitioner as stated by the learned counsel for the petitioner. As stated by the learned counsel for the petitioner, before completion of probation period, ie. April, May and July 2003, there was a vigilance enquiry against the petitioner with regard to procedure in settling the claim of LTC type II. Therefore, the probation of the petitioner was deferred. Subsequently, based on the recommendation of the Vigilance Department, a Charge memo was issued on 30.09.2004 to the petitioner. Due to unsatisfactory explanation received from the petitioner, the domestic enquiry was conducted by appointing an Enquiry officer. Upon receipt of the enquiry report, the petitioner was not declared the completion of probation and two increments were also reduced for two years without cumulative effect from 11.05.2005. Against which the petitioner filed appeal and the same was concluded only on 14.09.2006. Therefore, after concluding the appeal proceedings, the petitioner was considered for the declaration of promotion in the year 2006. ie. as on 11.05.2006 by order dated 13.11.2006 and also punishment on increment was reduced and modified as into one reduction of pay by two increments for one year by an order dated 14.09.2006. As per the rules, the petitioner is not entitled to declare the probation as on 05.09.2003 since he was charged on the aforesaid allegation. However, the petitioner was declared the completion of probation period only after the punishment was imposed. Due to the Vigilance enquiry and the Departmental Enquiry with regard to the aforesaid issue, the petitioner was imposed punishment by way of non-declaration of completion of probation period and reduction of increments in the Salary. Therefore, there is no arbitrary and discrimination in the case of the petitioner. Since there is no merit in the Writ petition, it is liable to be dismissed.

5. Heard and perused the records.

6. Admittedly, the petitioner was working as Deputy Manager (Finance) in the year 2002 and subsequently, in the same year, he was promoted as Manager (Finance) by an order dated 06.09.2002, with effect from 01.06.2001. As per rules, the completion of probation period will be declared in the end of one year from the date of issue of the promotion order. Hence,

the completion of the probation period of petitioner falls as on 05.09.2003. But, during the period of probation, the petitioner was enquired by the Vigilance Officer with regard to the procedure in passing of bills of L.T.C. since there was a male-practice was adopted by the employee. Thereafter, based on the recommendation of the Vigilance Department, the charge memo was issued to the petitioner on 30.09.2004, subsequently, a enquiry officer was appointed to enquire the issue and based on the enquiry report the aforesaid punishment was imposed against the petitioner. Against which, the petitioner filed an appeal before the 2nd respondent but, it was dismissed by the appellate authority. Therefore, after the period of punishment, completion of probation was duly declared in the year 2006 and punishment on reduction of increment had been reduced and modified from reduction of two increments for two years without cumulative effect, w.e.f.11.05.2005 to one of reduction of pay by two increments for one by an order dated 14.09.2006.

7. Having considered the aforesaid facts and circumstances of the case and as narrated in the counter filed by the respondent, the petitioner is not entitled to declare the completion of probation as on 05.09.2003 since he was charged during the probation period. Further, the petitioner was declared the completion of probation only after the period of punishment as per the rules. Therefore, this Court does not find any merit in the writ petition and accordingly, the writ petition is dismissed.

Sd/-

Assistant Registrar(CJ CONFERENCE)

//True Copy//

Sub Assistant Registrar

lbm

To:

1. The Chairman-cum-Managing Director,  
Neyveli Lignite Corporation Ltd.,  
Corporate Office, Block 1, Neyveli - 607801.

2. The Director (Personnel)  
Neyveli Lignite Corporation Ltd.,  
Corporate Office, Block-1, Neyveli - 607 801.

+1cc to M/s.N.Nithianandam, Advocate, S.R.No.39279

+1cc to M/s.L.Chandrakumar, Advocate, S.R.No.39403

W.P.No.36104 of 2007

KV(CO)

rv(20/01/2021)