



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.Nos.46617 & 46618 of 2006

K.M.Sheikhan ... Petitioner in W.P.No.46617 of 2006

1.G.Murali (Late)

2.M.Sakila

3.M.Dinesh

4.M.Divya

5.G.Sagunthala ... Petitioners in W.P.No.46618 of 2006
(P2 to P5 are substituted as LRS)

Vs.

1.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board,
Rural and Water Supply Division,
Villupuram.

2.The Chief Engineer,
Northern Region,
Tamil Nadu Water Supply and
Drainage Board,
Vellore.

3.The Managing Director,
Tamil Nadu Water Supply and
Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

... Respondents in both W.Ps.

Prayer in W.P.No.46617 of 2006: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records connected with the order of penalty passed in Na.Mu.No.19376/2002-2/E3/24/Tha.po. dated 24.01.2005 by the second respondent awarding a penalty of withholding one increment with cumulative effect and recovery of Rs.50717/- and the subsequent order of confirming the penalty passed in proceeding No.17746/Ni(O.Na)Aa-1/2005-15 dated 10.10.2006 by the third respondent and quash the same and further direct the respondents not to withhold any other benefits in consequence of the penalty orders connected with the charges which the



petitioner legally entitled to receive.

Prayer in W.P.No.46618 of 2006: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records connected with the order of penalty passed in Na.Mu.No.19376/2003-3/E3/Tha.po/va.ma dated 24.01.2005 by the second respondent awarding a penalty of withholding one increment with cumulative effect and recovery of Rs.1,01,434/- and the subsequent order of confirming the penalty passed in proceeding No.18828/Ni(O.Na)Aa-1/2005-3 dated 10.10.2006 by the third respondent and quash the same and further direct the respondents not to withhold any other benefits in consequence of the penalty orders connected with the charges which the petitioner legally entitled to receive.

For Petitioners in both W.Ps. : Mr.G.P.Arivuchudar

For Respondents in both W.Ps. : Mr.S.Eraskine Leo,
Standing Counsel

COMMON ORDER

These writ petitions are filed by the respective petitioners seeking to quash the order of penalty passed by the second respondent and confirmed by the third respondent and also to direct the respondents not to withhold any other benefits consequent to the penalty orders connected with the charges.

2. The petitioner in W.P.No.46617 of 2006 was working as jeep driver from July 1981 in the respondent Board. He used to take the first respondent in the jeep to various villages as per the camp plan to inspect the works carried out there. On 07.10.2003, he went to the first respondent's office at 7 a.m. and went along with the first respondent in the Jeep bearing registration No.TN 32A 8230 and came back to the office at 8.30 p.m. on the same day. Immediately on arrival, he parked the Jeep in the usual place of parking within the compound fenced by barbed wire. Thereafter, he locked the front and back doors of the Jeep and left the key in the table drawer of the Assistant Engineer who is the first petitioner in W.P.No.46618 of 2006 and told him about the same. Next day i.e., on 08.10.2003 at 8.20 a.m., as usual, when he came back to the first respondent's office, he found that the jeep was missing. He also enquired the watchman who was in duty at night. However, the said watchman replied that he did not know about the jeep. Thereafter, he informed about the missing of the jeep to the Assistant Executive Engineer over phone at about 8.40 a.m. and to the



neither any witness was examined nor any document filed. In support of his contention, he placed reliance on the Judgment of this Court dated 11.10.1990 in the case of The Tamil Nadu Water Supply and Drainage Board and another vs. M.D.Vijayakumar and Others and submitted that in the eye of law, the disciplinary action initiated is not sustainable.

9. Learned Standing Counsel appearing for the respondents would submit that since the charges were framed under Regulation 9(b) of the TWAD Board Employees (Discipline & Appeal) Regulation, 1972, in this matter, the appellate authority should not be an enquiry officer. As per Regulation 7(A)5 of the said Regulation, the immediate superior officer or any higher authority is competent for imposing penalty and hence, there is nothing wrong in the appointment of enquiry officer. The said regulation is applicable to all employees of the Board including Drivers and Assistant Engineers.

10. Heard learned counsel for the respective petitioners and learned Standing counsel appearing for the respondents.

11. It is an admitted fact that the petitioner in W.P.No.46617 of 2006 was working as a driver and the first petitioner in W.P.No.46618 of 2006 was working as an Assistant Engineer in the respondent Board. The petitioner in W.P.No.46617 of 2006 parked the Jeep in the usual place of parking within the compound fenced by barbed wire. Thereafter, he locked the front and back doors of the Jeep and left the key in the table drawer of the Assistant Engineer who is the first petitioner in W.P.No.46618 of 2006. However, as per the Tamil Nadu Water Supply and Drainage Board Office order, the Assistant Engineer should have instructed the Driver to park the jeep in the office campus and hand over the jeep keys to the Division Office staff. However, the Assistant Engineer who is the first petitioner in W.P.No.46618 of 2006 failed to instruct the driver of the jeep who is the petitioner in W.P.No.46617 of 2006 to park the jeep in the office campus and hand over the jeep keys to the Division office staff.

12. In the counter affidavit, it is clearly stated that since the charges were levelled under Regulation 9(b) of the TWAD Board Employees (Discipline & Appeal) Regulation 1972, the authority to impose the penalty and the appellate authority should not be an enquiry officer. In the present case, the Deputy Superintending Engineer of Cuddalore - Villupuram Circle has been appointed as Enquiry Officer. As per regulation 7(A)5 of the said Regulation 1972, immediate superior officer or any higher authority is competent for imposing penalty.



13. A reading of the Tamil Nadu Water Supply and Drainage Board Employees (Discipline & Appeal) Regulation 1972, makes it very clear that the Regulation is applicable to all employees of Tamil Nadu Water Supply and Drainage Board including Drivers and Assistant Engineer. Regulation 58 contemplates the applicability of regulations as per government rules in respect of pay, allowances, leave, leave salary, pension and other condition of service.

14. Therefore, viewing from any angle, this court does not find any infirmity in the order passed by the second and third respondents. Further, the punishment awarded in respect of the petitioners' misconduct is not shockingly disproportionate and therefore, it does not call for any interference. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True copy
Sub-Assistant Registrar

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To

1.The Executive Engineer,
Tamil Nadu Water Supply and
Drainage Board,
Rural and Water Supply Division,
Villupuram.

2.The Chief Engineer,
Northern Region,
Tamil Nadu Water Supply and
Drainage Board,
Vellore.

3.The Managing Director,
Tamil Nadu Water Supply and
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No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005

+1 cc to G.P.Arivuchudar Advocate sr40243

W.P.Nos.46617 & 46618 of 2006

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