

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.11754 of 2010

S.Zacharias

S/o.Mr.C.Swaminathan

... Petitioner

vs.

1. Tamil Nadu Electricity Board,
represented by its Chairman,
No.800, Anna Salai,
Chennai 600 002.
2. The Chief Engineer,
Office of the Chief Engineer,
Tamil Nadu Electricity Board,
Vellore Region, Vellore.
3. The Superintending Engineer,
Office of the Superintending Engineer,
Tamil Nadu Electricity Board,
DEDC, Dharmapuri.
4. The Executive Engineer O & M,
Tamil Nadu Electricity Board,
Hosur, Krishnagiri District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd Respondent in connection with the impugned order in Memo No.004297/77/Ni.A/U2/2010-1, dated 12.04.2010 and quash the same and issue such further or other appropriate orders.

For Petitioner : Ms.Pavithra Ravichandran
for M/s.M.D.Thirunavukkarasu

For Respondents: Mr.A.Fakkir Mohideen

ORDER

Petitioner has come up with the present Writ Petition challenging the impugned order of termination dated 12.04.2010 passed by the 2nd Respondent vide proceedings in Memo No.004297/77/Ni.A/U2/2010-1.

2. According to the Petitioner, he was working as a Foreman Grade-I at Mathigiri, Hosur. He was issued with a Charge Memo that, he misbehaved with his superior Officer and had used unparliamentary words in the Office premises. It is the case of the Petitioner that, he was not given sufficient opportunity to defend his case in the enquiry and the Enquiry Officer concluded that, only the second charge was proved and that, the first charge was not proved in the enquiry. Based on the Enquiry Report, the 4th Respondent imposed the punishment of postponement of next increment for a period of one year with cumulative effect.

3. Aggrieved over the said punishment, the Petitioner preferred an Appeal to the 3rd Respondent on 10.05.2007, which was rejected by the said Authority on 29.07.2007. Challenging the rejection order, the Petitioner preferred a second Appeal before the 2nd Respondent on 05.09.2007. As the 2nd Respondent did not consider his Appeal within the time stipulated, the Petitioner approached this Court in W.P.No.33399 of 2007 seeking a direction to the 2nd Respondent to dispose of his Appeal dated 05.09.2007. The said Writ Petition was disposed of by this Court on 22.01.2010 with a direction to the 2nd Respondent herein, to dispose of the Petitioner's Appeal within a period of eight weeks from the date of receipt of a copy of the order.

5. Pursuant to the order passed by this Court, the 2nd Respondent vide impugned order dated 12.04.2010 in Memo No.004297/77/Ni.A/U2/2010-1, rejected the Petitioner's Appeal and confirmed the order of punishment dated 18.01.2007 issued by the 4th Respondent. Challenging the same and contending that, the punishment imposed on him is illegal and that, he has not committed any misconduct, the Petitioner is before this Court.

6. Learned Standing Counsel appearing for the Respondents submitted that, the original order of punishment was passed by the Disciplinary Authority on 18.01.2007 and the same has been confirmed by the Appellate Authority by an order dated 29.07.2007. It is his contention that, the Petitioner, without challenging the original order dated 18.01.2007, has preferred a second Appeal before the 2nd Respondent herein challenging the order passed by the Appellate Authority and the same was reviewed by this Court in W.P.No.33399 of 2007 by an order dated 22.01.2010.

7. Even though this Court has passed an order directing the 2nd Respondent herein to dispose of the second Appeal dated 05.09.2007 preferred by the Petitioner, the same is not in accordance with the Regulations, as mere direction to dispose of the second Appeal, which is not permissible under the Rules, will not give any right to the Petitioner to challenge the order. Even assuming that, it could be questioned, the original order dated 18.01.2007 passed by the Disciplinary Authority, ought to have been challenged.

8. As rightly pointed out by the learned Standing Counsel appearing for the Respondents, in order to cover up the delay, without challenging the original order passed by the Disciplinary Authority on 18.01.2007, the Petitioner preferred an Appeal to the 3rd Respondent on 10.05.2007, and challenging the rejection of the said Appeal on 29.07.2007, he preferred a second Appeal on 05.09.2007.

9. The conduct of the Petitioner is highly deprecated. Though the Court will be slow in making criticisms against workers, except in the case of misconduct pertaining to misappropriation or breach of trust and the like, in the present case on hand, whoever is responsible for advising the Petitioner to prefer a second Appeal and pending consideration of the same, approach this Court and get a direction from this Court to the 2nd Respondent to dispose of the said Appeal within the time stipulated and thereafter, challenge the rejection order passed by the 2nd Respondent, without questioning the original order passed by the Disciplinary Authority, needs to be condemned.

10. In view of the above, this Court finds no reason to interfere with the impugned order passed by the 2nd Respondent. Bearing in mind the conduct of the Petitioner, this Court would have imposed costs of not less than Rs.25,000/-. However, taking note of the fact that, the Petitioner has attained superannuation, this Court is not inclined to impose costs on him.

Accordingly, this Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

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