

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.M.P.No.4489 of 2020
and W.A.No.SR128348 of 2019

A.Sampath Kumar

.. Petitioner/
Appellant

-vs-

1. The Board Members
Tamil Nadu Electricity Board
Chennai – 600 002.

2. The Chairman
Tamil Nadu Electricity Board
Chennai – 600 002.

3. The Regional Chief Engineer (Distribution)
Vellore Region, Gandhi Nagar
Vellore – 6.

.. Respondents

PRAYER in CMP.No.4489 of 2020: Petition under Section 5 of the Limitation Act to condone the delay of 3610 days in preferring the writ appeal against the order made in W.P.No.8509 of 2011, dated 18.8.2009.

PRAYER IN W.A.No.SR128348 of 2019: Appeal under Clause 15 of the Letters Patent to set aside the order dated 18.8.2009 made in W.P.No.8509 of 2018.

For Petitioner/
Appellant : Mr.K.P.Chandrasekaran

JUDGMENT

(Delivered by *The Hon'ble Chief Justice*)

Learned counsel for the petitioner/appellant has argued more on sympathy contending that the appellant is suffering from cancer and his son is suffering from kidney failure. It is urged that in these peculiar circumstances, this Court may take a lenient view of the matter and by setting aside the order of punishment, which is dismissal, substitute it by at least making a provision for pensionary benefits, keeping in view the family condition of the appellant.

2. Learned counsel, on the merits, has also urged that once the appellant was acquitted of the criminal charges by the High

Court, then, in that event, to maintain the punishment in the disciplinary proceedings on the very same count would not be appropriate. He submits that only three out of five charges are alleged to have been proved and, therefore, it is evident that there was hardly any material to arrive at the conclusion so as to warrant the extreme punishment of dismissal.

3. Since the learned counsel has argued the matter passionately, we would not discuss the charges in detail, which have already been enumerated in the judgment of the learned Single Judge. The fact remains that the order of dismissal was passed on 28.7.1986, in respect of the charges levelled in the year 1981, after having found the reply submitted by the appellant to be unsatisfactory. This was confirmed in appeal on 9.12.1987 and by the Full Board of the respondent on 7.8.1990. These orders were not challenged immediately thereafter.

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4. The criminal matter ended in conviction of the appellant, against which a criminal appeal was filed before the High Court,

which was allowed on 13.7.1998. For all these years, no challenge was raised to the dismissal order. Not only this, even after the judgment of the High Court in the criminal case, the writ petition came to be filed in January, 2001, almost three years thereafter. It is thus evident that the matter proceeded at a very casual pace, may be on account of inappropriate legal advice or otherwise, but the fact remains that the learned Single Judge, after having discussed the entire matter in detail and in depth, found that it was not possible to interfere in the matter. The discretion was refused after having dealt with the matter on merits, which we have very carefully perused.

5. We have not been able to find any reason to disagree with the learned Single Judge, more particularly on the fact that the acquittal in the criminal case on a technical ground of non producing of evidence and defect in prosecution will not, in any way, dilute the charges that were levelled during the disciplinary proceedings and ended in his dismissal after perusing the material on record.

6. We sympathize with the concern shown by the learned counsel for the appellant, but unfortunately on the legal plane, the law does not favour the appellant, as held by the learned Single Judge. Consequently, it is for the respondents to consider any review, in the event it is permissible on such sympathetic considerations and not for us to interfere with the order of the learned Single Judge.

The Civil Miscellaneous Petition as well as the Appeal SR are consigned to records.

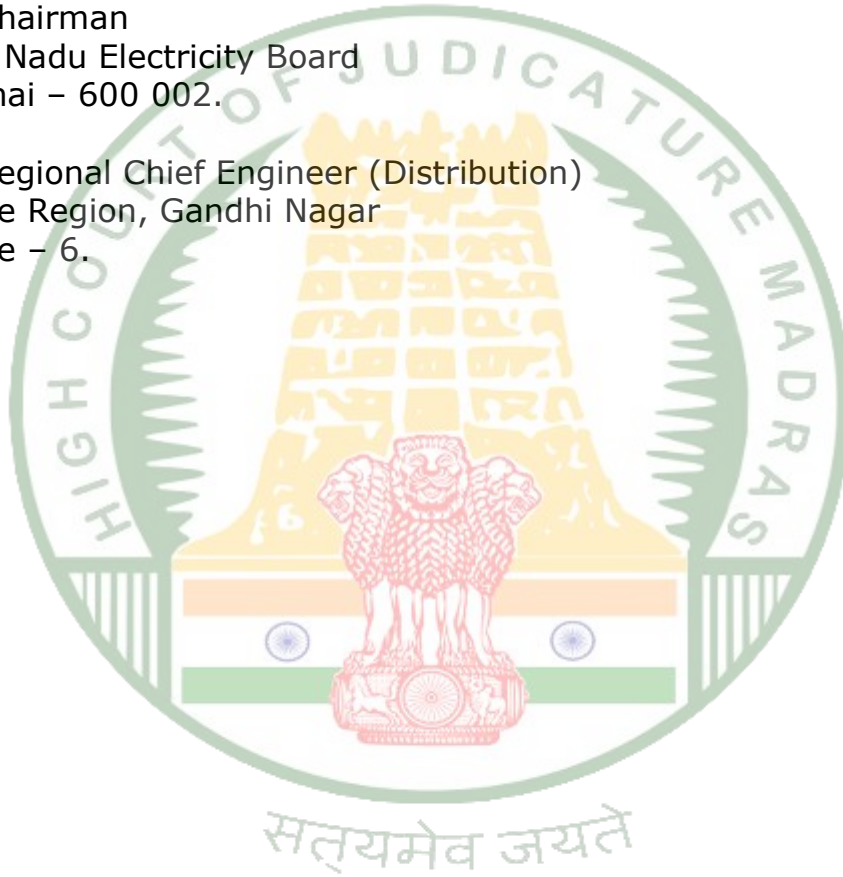
(A.P.S., CJ.) (S.K.R., J.)
18.09.2020

Index : Yes
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THE HON'BLE CHIEF JUSTICE
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(sasi)



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