

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.02.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4313 of 2020 & WMP.No.5113/2020

S.Muthukumaraswamy

...Petitioner

Vs.

1.M/s.Neyveli Lignite Corporation India Ltd.,
rep.by its Managing Director,
Corporate Office, Block No.1
Neyveli 607801
Cuddalore District.

2.The Deputy General Manager/Civil
Thermal Station-II [Disciplinary Authority]
DGM/CIVIL/TS II [NLC India Ltd]
Neyveli Lignite Corporation India Ltd.,
Neyveli 607807, Cuddalore District.

..Respondents

Prayer:- Writ petition filed under Article 226 of the
Constitution of India praying to issue a Writ of certiorari
calling for the records pertaining to issuance of proceedings in
Memo.No.TPS-II/HR/DA/7350/201812160049/2018-5 dated 07.02.2020
issued by the 2nd respondent and quash the same.

For Petitioner : Mr.B.Ravi

For Respondents : Mr.N.Nithianandam

Standing Counsel

O R D E R

By consent, this writ petition is taken up for final
disposal.

2. This writ petition has been filed challenging the
impugned notice issued by the 2nd respondent dated 07.02.2020,
wherein, the 2nd respondent after considering the findings of the
Enquiry officer has issued a notice to the petitioner, calling
upon him to give his explanation and also to show cause as to
why the petitioner should not be removed from service.

3. The petitioner was working as a Deputy General Manager
in the 1st respondent company. Disciplinary proceedings came to
be initiated against the petitioner. A charge memo was issued

and the petitioner gave his explanation. An enquiry officer was appointed and the Enquiry Officer has given his report to the 2nd respondent. As per the report of the Enquiry Officer, charges against the petitioner has been proved.

4. The Enquiry report / findings of the Enquiry Officer was served on the petitioner and the petitioner also given his explanation on 11.11.2019. The impugned notice dated 07.02.2020, has now been issued by the 2nd respondent, calling upon the petitioner to show cause as to why the petitioner should not be removed from service. This notice has been put to challenge in the present writ petition.

5. The learned counsel for the petitioner submitted that the 2nd respondent is acting in this case with a predetermined mind and even without asking for an explanation from the petitioner, he has stated that the petitioner will be removed from service with immediate effect. The learned counsel submitted that the 2nd respondent has only issued the notice to complete the formalities and he has already decided to remove the petitioner from service. Therefore, the learned counsel for the petitioner submitted that the impugned notice issued by the 2nd respondent requires interference.

6. Per contra, the learned counsel appearing on behalf of the respondents submitted that the petitioner has already given his explanation for the report given by the Enquiry Officer. The present impugned notice was issued by the 2nd respondent, since the 2nd respondent was proposing to impose a major penalty against the petitioner. The learned counsel further submitted that the wordings used in the impugned notice cannot be taken to mean that the 2nd respondent was acting with a predetermined mind. The learned counsel submitted that whatever the petitioner wants to give as explanation, can be given by way of writing to the 2nd respondent and the same will be considered before the final orders are passed. Therefore, the learned counsel concluded his arguments by submitting that there is no requirement for interfering with the impugned notice issued by the 2nd respondent, at this stage.

7. This Court has carefully considered the submissions made on either side and the materials placed on record.

8. The petitioner is aggrieved by the language that is used in the impugned notice that was issued by the 2nd respondent, who is proposing to impose a major penalty against the petitioner. Already, the petitioner has given his explanation for the findings of the Enquiry Officer and after

considering the same, the 2nd respondent has issued the impugned notice to the petitioner. This notice was necessitated, since the 2nd respondent is proposing to impose a major penalty against the petitioner. Therefore, at the best, this notice can only be taken to be a show cause notice to the petitioner and the petitioner can give his explanation for the same. The 2nd respondent can consider the explanation given by the petitioner and independently, come to a conclusion, with regard to the final punishment to be imposed against the petitioner.

9. In view of the above, this writ petition is disposed of with a direction to the petitioner to submit his explanation to the 2nd respondent, within a period of four weeks from today. The 2nd respondent on receipt of the same, shall independently apply his mind on the material before him and pass final orders thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Managing Director,
M/s.Neyveli Lignite Corporation India Ltd.,
Corporate Office, Block No.1
Neyveli 607801
Cuddalore District.

2.The Deputy General Manager/Civil
Thermal Station-II [Disciplinary Authority]
DGM/CIVIL/TS II [NLC India Ltd]
Neyveli Lignite Corporation India Ltd.,
Neyveli 607807, Cuddalore District.

+1 cc to M/s.B.Ravi, Advocate Sr.No. 17012

+1 cc to M/s.N.Nithianandam, Advocate Sr.No. 15948

AKM/02.03.2020/3P-5C /

W.P.No.4313 of 2020