

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 07.01.2020	Delivered on 09.01.2020
---------------------------	----------------------------

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.11299 of 2019
and
WMP No.11645 of 2019

R.Sridhar

.. Petitioner

.Vs.

1.The Chief Engineer/Distribution,
Chennai Region/North,
Tamil Nadu Electricity Generation &
Distribution Corporation,
No.144, Anna Salai, Chennai-600 002.

2.The Superintending Engineer,
Chennai Electricity Distribution Circle/North,
Tamil Nadu Electricity Generation &
Distribution Corporation,
No.144, Anna Salai, Chennai-600 002.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 2nd respondent in Memo No. SE/CEDC/North/Adm.O/Adm.I/A4/F.DP.No.654/2011 dated 31.08.2017 and the consequential order passed by the 1st respondent in Memo No.005080/653/Adm/B.Sec/B.2/F. Appeal.2017-2 dated 07.01.2019 and quash the same.

For Petitioner : Mr.M.Ravi
for Mr.K.Sasindran

For Respondents: Mr.P.R.Dhilip Kumar
Standing Counsel

O R D E R

The subject matter of challenge in the present writ petition is the order passed by the 2nd respondent dated 31.08.2017 and the consequential order passed by the 1st respondent in the appeal dated 07.01.2019.

2.The case of the petitioner is that he was appointed as a Technical Assistant in the Tamil Nadu Electricity Board in the year 1997 and he was promoted as an Assistant Engineer in the year 2007 through internal

selection. A charge memo came to be issued by the 1st respondent on 03.03.2014, framing six charges against the petitioner. The petitioner on the receipt of the charge memo, submitted his explanation on 27.03.2014, denying each charge and requested for dropping of the proceedings. It is seen from records that for the happenings that took place before 2010, the charge memo came to be issued in the year 2014 after four years.

3. An Enquiry Officer was appointed in the year 2014 and he conducted an enquiry by getting explanation from the petitioner. No witnesses were examined and no documents were marked during the enquiry. The enquiry itself was getting postponed on a very regular basis and it took nearly two years to complete the enquiry. The Enquiry Officer submitted his report in the year 2017 and the petitioner was again called upon to submit his explanation on the findings of the Enquiry Officer. The petitioner submitted his explanation. The Disciplinary Authority viz; the 2nd respondent was not satisfied with the explanation and by his impugned order dated 31.08.2017, has imposed a punishment of stoppage of annual increment for two years with cumulative effect.

4. The petitioner aggrieved by the said order filed an appeal before the 1st respondent and the 1st respondent by an order dated 07.01.2019, modified the punishment as stoppage of increment for a period of three years without cumulative effect excluding the leave. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Mr. M. Ravi, learned counsel appearing on behalf of the petitioner submitted that the enquiry itself was fixed after nearly four years from the date of the alleged incident. The learned counsel submitted that there was no witness on the side of the management and no documents were marked on the side of the management and the punishment has been imposed only based on the explanation given by the petitioner. The learned counsel submitted that the enquiry itself got delayed for more than two years and as a result of the pendency of the punishment, the promotion of the petitioner was not considered and all his juniors have been promoted and they have surpassed the petitioner. The learned counsel further submitted that neither the 2nd respondent nor the 1st respondent have given any reasons for imposing the punishment against the petitioner and their orders are liable to be interfered on this ground alone.

6. Per contra, Mr. P. R. Dhilip Kumar, learned Standing Counsel appearing on behalf of the respondents submitted that there is no requirement to examine any witnesses on the side of the management or mark any documents, in view of the nature of the charges framed against the petitioner. The learned counsel submitted that the charges involved clear dereliction of duty on the part of the petitioner and non explanation for

poles not being handed over to the department, resulting in revenue loss. The learned counsel therefore submitted that the explanation given by the petitioner was taken into consideration and punishment was imposed against him. The learned counsel submitted that a sum of Rs.2,61,440/- which was the loss caused by the petitioner, was also remitted from the salary of the petitioner. A counter affidavit has also been filed by the respondents in this writ petition.

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

8.In the present case, there were totally six charges that were framed against the petitioner and the petitioner had given his explanation for every charge. During enquiry, no one was examined on the side of the management and no documents were also marked. Therefore, the entire findings in the Enquiry Report was only based on the explanation given by the petitioner.

9.It is found from the 2nd Show Cause Notice issued by the 2nd respondent on 27.05.2017 that he had already expressed his mind by accepting the findings of the Enquiry Officer and he had called for explanation from the petitioner only with regard to the punishment. The Show Cause Notice issued by the 2nd respondent was a mere formality since he had already expressed his mind and stated that he is accepting the findings of the Enquiry Officer.

10.While passing the impugned order dated 31.08.2017, the 2nd respondent had extracted the Show Cause Notice verbatim and without assigning any reasons or dealing with the explanation given by the petitioner, has proceeded to impose the punishment. The order passed by the 2nd respondent does not contain any reasons and the 2nd respondent has straightaway come to the conclusion to impose punishment. To make matters worse, the 1st respondent before whom the appeal was filed has also failed to give any reasons and he has mechanically confirmed the order passed by the 2nd respondent except modifying the punishment.

11.Punishment imposed on a delinquent employee has its own civil consequences. Therefore, the order imposing punishment will have to necessarily be supported by reasons. The Hon'ble Supreme Court has repeatedly held that when civil consequences ensue, there is hardly any distinction between an administrative order and quasi judicial order and it is implicit that it must satisfy the principles of natural justice. Useful reference can be made to the judgment of the Hon'ble Supreme Court in *Rajesh Kumar and Others .v. Dy.Cit and Others* reported in [2007 2 SCC 181] and in *Uma Nath Pandey and Others .v. State of U.P.* And another reported in [2009 2 CJC 663]. Only the reasons given in an order will

reflect the application of mind on the part of the authority and in the absence of the same, the order itself gets vitiated and would require interference.

12. In the present case, the 2nd respondent has not given any reasons whatsoever while imposing a punishment against the petitioner and even the 1st respondent while dealing with the appeal has failed to give any reasons. Reasons in this case becomes even more important since no witnesses were examined or no documents were marked during the enquiry and the order itself was passed only based on the explanation given by the petitioner. The petitioner has not accepted any charge and therefore, it is the duty of the authority to state in the order as to why he is not agreeing with the explanation given by the petitioner. Of course, orders passed in the departmental proceedings need not be like a judgment passed by a Court. However, there must be some reasons assigned in the order and the same is completely lacking in the present case.

13. In view of the above discussion, the impugned order passed by the 2nd respondent dated 31.08.2017 and further confirmed by the 1st respondent by order dated 07.01.2019 are hereby quashed. If at all, the 2nd respondent wants to proceed further with the departmental proceedings, he shall start from the stage of issuing the second Show Cause Notice calling for explanation from the petitioner on the findings of the Enquiry Report and thereafter, the 2nd respondent has to apply his mind on the explanation and assign reasons and pass orders.

In the result, this writ petition is allowed by giving liberty to the respondents to the extent indicated herein above. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

KP

To

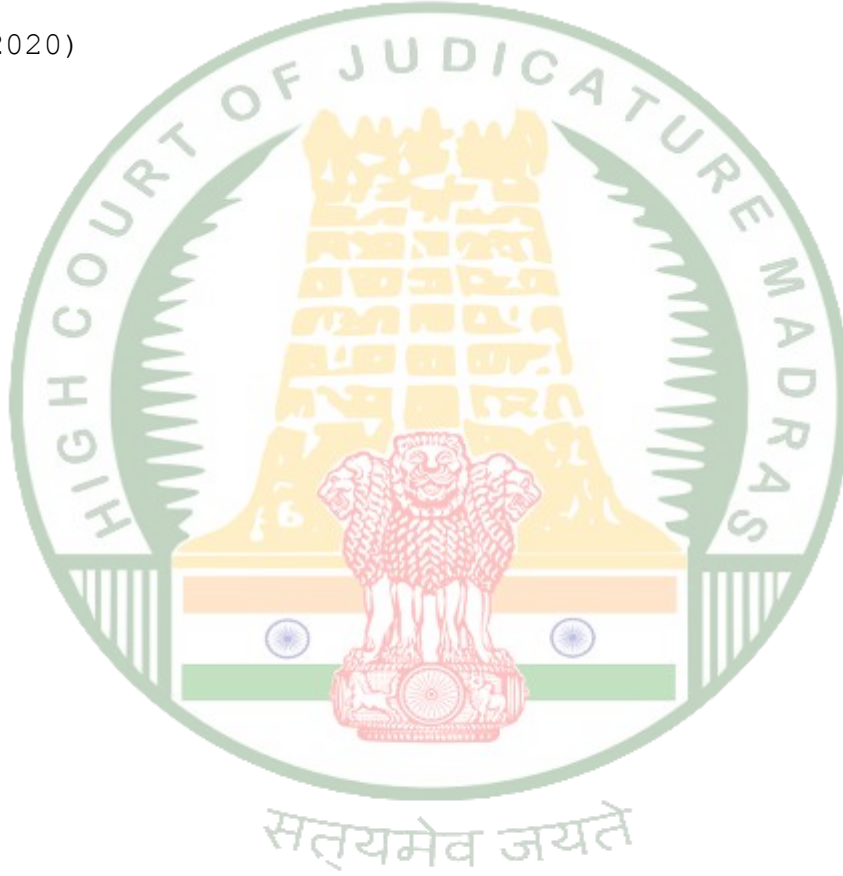
1. The Chief Engineer/Distribution,
Chennai egion/North,
Tamil Nadu Electricity Generation &
Distribution Corporation,
No.144, Anna Salai, Chennai-600 002.

2.The Superintending Engineer,
Chennai Electricity Distribution Circle/North,
Tamil Nadu Electricity Generation &
Distribution Corporation,
No.144, Anna Salai, Chennai-600 002.

+1cc to Mr.K.Sasindran, Advocate, S.R.No. 2449
+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No. 2083

W.P.No.11299 of 2019

NR(CO)
GN(12/02/2020)



WEB COPY