

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.09.2020

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WP No.10999 of 2020

R.Chandrasekaran

.. Petitioner

Vs

1. Tamil Nadu Generation and Distribution Corporation Ltd.,
Rep. By its Chairman cum Managing Director,
144, Anna Salai, Chennai - 2.

2. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Anna Salai, Chennai - 2.

3. The Superintending Engineer,
Chennai Electricity Distribution Circle/South-I,
Tamilnadu Generation and Distribution Corporation Ltd.,
K.K.Nagar, Chennai - 78.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 6.7.2020 which he has submitted to the 3rd respondent in terms of and in accordance with Ruling No.9 given under Rule 57-B of the TNEB Service Regulation and to regularise the period of his suspension from 17.07.2009 to 5.3.2019 as duty with pay for all purpose and with all monetary and other consequential benefits, after adjusting the subsistence allowance already paid to him during the period of suspension, within a specified time frame as may be fixed by this Court.

For Petitioner : Mr.Ajay Khose

For Respondents: Mr.P.R.Dhileep Kumar
Standing counsel for TNEB

O R D E R

This matter is taken up through Web hearing.

2. The writ petition has been filed seeking for the following prayer:

"for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 6.7.2020 which he has submitted to the 3rd respondent in terms of and in accordance with Ruling No.9 given under Rule 57-B of the TNEB Service Regulation and to regularise the period of his suspension from 17.07.2009 to 5.3.2019 as duty with pay for all purpose and with all monetary and other consequential benefits, after adjusting the subsistence allowance already paid to him during the period of suspension, within a specified time frame as may be fixed by this Court."

3. The petitioner, has joined the services of the 1st respondent as Technical Assistant (Tester Grade-II) on 11.12.1987. He was promoted as Tester Grade-I in 1993 and thereafter, promoted as Junior Engineer Grade-II (Electrical) in 1997. On 06.05.2002, the petitioner was appointed as Assistant Engineer (Electrical) through internal selection.

4. The petitioner was placed under suspension on 20.07.2009, on the basis of a criminal case registered against him and having been detained for more than 48 hours in judicial custody. The suspension order was put to challenge before this Court in WP No.12087 of 2018 and this Court by order dated 04.12.2018, quashed the suspension order and the respondents were directed to reinstate the petitioner in service. Subsequently, the 2nd respondent passed an order and on the basis of that the 3rd respondent issued a communication on 04.03.2019, revoking the suspension order and reinstated the petitioner in service. On 06.03.2019, the petitioner joined duty.

5. However, in the meanwhile, the criminal case filed against the petitioner ended in acquittal on 24.02.2020. Since he was acquitted in the criminal Court, the petitioner submitted a representation on 06.07.2020, requesting for regularisation of the suspension period from 17.07.2009 to 05.03.2019 as duty with pay and grant him all monetary benefits and other consequential allowances. As there was no action forthcoming in response to the representation, the petitioner is before this Court.

6. Mr.Ajay Khose, learned counsel for the petitioner would submit that according to Ruling No.9 of Rule 57-B of Tamil Nadu Electricity Board Service Regulations, the suspension period ought to be regularised. The said rule,

reads as under:

"9. Where a Board employee is--

(a) Placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(b) dismissed or removed from service or compulsorily retired on the ground of conduct which has led to his conviction on a criminal charge and -

- the Board employee is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground or on the ground that he has been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, or dismissed or removed or compulsorily retired from service."

7. According to the learned counsel for the petitioner, once the employee is acquitted from the criminal case, whatever be the type of acquittal, he is entitled to have his suspension period regulated as per the above rule. More so in this case, as according to the counsel, the petitioner was acquitted on merits. In this regard, the learned counsel also would submit that there are judicial precedents in support of his contention as this Court had passed number of orders directing the authorities to regulate the suspension period as per the above service regulations. He would therefore, request that the authorities may be directed to regulate the period of suspension in terms of judicial precedents and also, more in terms of the above mentioned regulation, which regulation according to him, is very clear and free from any ambiguity.

8. On behalf of the respondents, Mr.P.R.Dhileep Kumar, learned standing counsel appeared and the learned counsel on instructions, would submit that he would have no objection, if the authorities are directed to consider the representation of the petitioner in terms of the rule position, as pointed out by the counsel for the petitioner.

9. In the light of the above narrative, this Court considers that the claim of the petitioner appears to be covered squarely under the above extracted provision of the service regulations and in that view of the matter it is for the authority to pass orders in terms of the said regulation and also after taking into consideration the judicial

precedents that may be relied on by the petitioner, in the subject matter.

10. In view of the above, the writ petition is disposed of as under:

(i) The respondents are directed to consider the representation of the petitioner dated 06.07.2020 and pass appropriate orders regulating the period of suspension of the petitioner from 17.07.2009 to 05.03.2019, in terms of Ruling No.9 under Rule 57-B of the Tamil Nadu Electricity Board Service Regulations and also on the basis of the judicial precedents rendered on the subject matter.

(ii) The respondents are hereby directed to pass orders within a period of four weeks from the date of receipt of a copy of the order.

11. The Writ Petition is disposed of, as indicated above. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
144, Anna Salai, Chennai - 2.
- 2.The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Ltd.,
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Tamilnadu Generation and Distribution
Corporation Ltd.,
K.K.Nagar, Chennai - 78.

+1cc to M/s.Ajoy Khose, Advocate SR.28698

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VSN II(CO)
CB(19/10/2020)