

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5118 of 2021
and W.M.P.No.5700 of 2021

S.Mannankatti

... Petitioner

-vs-

1. The Deputy Superintendent/O.B/Mine-II,
Disciplinary Authority,
Neyveli Lignite Corporation Limited,
Neyveli-2, Cuddalore District.
2. The Chief Manager / Mine-II,
Neyveli Lignite Corporation Limited,
Neyveli-2, Cuddalore District.
3. The General Manager / Enquiry Officer,
Mine-II, Neyveli Lignite Corporation Limited,
Cuddalore District.
4. The Chief General Manager / Mine-II,
Neyveli Lignite Corporation Limited,
Neyveli-2, Cuddalore District.
5. The Chairman-cum-Managing Director,
Neyveli Lignite Corporation Limited,
Neyveli-2, Cuddalore District.
6. The Assistant Labour Commissioner @,
Office of the Dy.Chief Labour Commissioner (Central),
No.26, Haddows Road, 'Shastri Bhavan',
Chennai-600 006.

... Respondents

Prayer: Petition is filed under Article 226 of Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records in pursuant to the order of removal from service issued by the 1st respondent vide Memo.No. 18249/DA/GM/MII/98 dated 24.12.1998 and quash the same and for a consequential direction to the respondents 1 to 5 to reinstate the petitioner with all back wages and attendant benefits.

For Petitioner : M/s.M.Sangeetha

For Respondents: Mr.A.Jayaraman

O R D E R

The petitioner has filed this writ petition, challenging the order dated 24.12.1998 made in Memo.No.18249/DA/GM/MII/98, by which he was removed from service. The petitioner also sought a direction to the respondents 1 to 5 to reinstate the petitioner with all back wages and attendant benefits.

2. Mr.A.Jayaraman, learned Standing Counsel takes notice for the Respondents. By consent on either side, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that he was issued with a charge memo for his unauthorized absent from duty from 21.07.1998 without giving any leave application. According to the petitioner, he was unable to attend duty from 21.07.1998 to 10.09.1998, pursuant to his illness and being not satisfied with the said explanation offered by him, an Enquiry Officer was appointed to enquire into the charge levelled against him. It is further case of the petitioner that he did not attend the enquiry due to his sickness and without considering the actual fact, an exparte enquiry was conducted and a report was submitted holding the charge as proved.

3.1. It is also the case of the petitioner that based on the report, the 1st respondent, after asking for explanation from him in respect of the proposed punishment, imposed the punishment of removal from service with effect from 21.07.1998. The petitioner raised Industrial Dispute before the 6th Respondent, apart from sending a representation to the 5th Respondent, with a request for reinstatement and the 6th Respondent issued notice to the petitioner to attend the conciliation proceedings on 24.11.2006 and 29.05.2007. Though he duly participated in the conciliation proceedings and the NLC Management also filed a counter affidavit, the petitioner was not informed about the final orders passed in the conciliation proceedings and the NLC Management also did not furnish copies of enquiry report, termination order, etc., for the purpose of challenging it before the Higher Forum. Hence, aggrieved by the order of termination, he is before this Court.

4. Learned Counsel for the Respondents 1 to 5 contended that the petitioner absented himself from work for quite a long time without any intimation or leave application and the Respondents, having left with no other option, decided to proceed against him departmentally, on issuance of charge memo and appointment of an Enquiry Officer. He further contended that even before the Enquiry Officer, the petitioner did not choose to appear, which resulted in conducting an exparte enquiry. Since all the procedures have been followed in passing termination order against the petitioner, no interference is warranted in the impugned order, that too after a lapse of several years.

5. The petitioner has questioned the order of termination after a lapse of nearly 21 years and the petitioner, who is now 49 years old, has raised a dispute with regard to his removal from service. There is every possibility of reference by the Government and an Award being passed by the Central Administrative Tribunal-cum-Labour Court. Except the fact that the petitioner appeared before the Conciliation Proceedings, there is no reference with regard to the outcome of the Conciliation Proceedings. As the petitioner has approached this Court after 21 years, this Court is not inclined to grant the relief sought for by the petitioner. The intention of the petitioner appears to be that by means of getting an order from this Court, he can have a lottery and the approach adopted by the petitioner is not appreciated.

6. Taking note of the fact that the petitioner had already been removed from service and almost 21 years have gone-by, it is a fit case for dismissal. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Superintendent/O.B/Mine-II,
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+1cc to Mr.N.Nithianandam, Advocate, S.R.No.14061
+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.14062

W.P.No.5118 of 2021

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