



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 30.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P.No.34689 of 2005
(Through Video Conference)

D.Murugan

...Petitioner

Vs

1) The Chairman,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 600 002

2) The Chief Engineer (Distribution),
Tamil Nadu Electricity Board,
Vellore Region, Vellore - 6,
Vellore District.

3) The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Dharmapuri-5, Dharmapuri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the Second Respondent in Ku.Aa.No.020589/Nir.A/A.2/2002 dated 17.10.2002 confirming the order of removal from service issued by the third respondent in Ku.No.3530/Ni/Pi.5/U.1/Ko.O.Na.69/2002 dated 15.06.2002 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.P.Rajendran

For RR 1 to 3 : Mr.P.Subramanian
Senior Counsel (TNEB)

O R D E R

The writ petitioner is functioning as an Assessor at the office of the Assistant Engineer (Operation & Maintainance), Tamil Nadu Electricity Board in Rayakottai Division, Dharmapuri under the respondents. It appears that the Assessor of Rayakottai, Central Zone went on leave for a period of two



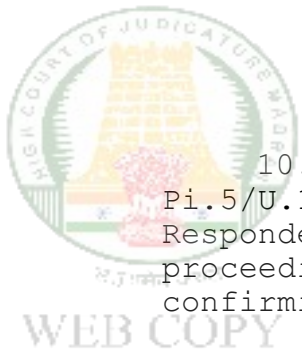
the same incident should be equal to the similarly placed persons or proportionate to the delinquency committed by them. In the case of regular Assessor, he was left off with minor punishment of 'stoppage of increment' whereas, the person, who was deputed during leave vacancy was imposed with 'removal from service'. Such treatment is violative of Articles 14 & 16 of the Constitution of India.

6. Secondly, a specific ground was raised that the so-called defective meter was sent for lab analysis, whereas, it was found that there is no fault in the functioning of the meter. The inference was that the Company was closed and there was no consumption and that is why the meter was not running. Apart from this, the very same respondents refunded the penalty collected from the consumer, pursuant to the cancellation of the penalty order. In that event, it should be inferred that there is no fault on the part of the delinquent and there is no loss caused to the Government.

7. Even though a specific ground was raised, the Appellate Authority has not at all discussed the issue and arrived at a finding that no new grounds were raised. Such an order shows the non-application of mind of the Appellate Authority. The impugned order of removal from service, is thereby vitiated for non-application of mind.

8. Apart from the above, on a perusal of the notice issued by the Disciplinary Authority dated 28/03/2002, it is noted that even before calling for objections over the enquiry report, the Disciplinary Authority has pre-determined the issue. It is recorded that, considering the findings of the Enquiry Officer and the past service and antecedents of the petitioner, it is proposed to dismiss the petitioner from service. Such a procedure, even before calling for objection over the enquiry report, is illegal and unsustainable and opposed to the principles of natural justice.

9. The show cause notice is issued with a predetermined view, without getting objections over the enquiry report. Therefore, it is seen that the respondents have approached the issue with a predetermined and vindictive view to punish the petitioner. Such type of orders are arbitrary, illegal and amounts to misuse of powers. Considering the fact that the lab report declared the meter was functioning properly and the money was refunded to the consumer by canceling the order of penalty imposed by the Competent Authority, the charge imposed on the petitioner cannot be sustained. Accordingly, the punishment imposed by the respondents also cannot be sustained.



10. In the result, the impugned order in Ku.No.3530/Ni/Pi.5/U.1/Ko.O.Na.69/2002 dated 15/06/2002 passed by the third Respondent and the order of the Appellate Authority is proceedings in Ku.Aa.No.020589/Nir.A/A.2/2002 dated 17/10/2002 confirming the order of the Disciplinary Authority is set aside.

11. In fine, the Writ Petition stands Allowed and a direction is issued to the respondents to reinstate the petitioner with continuity of service with immediate effect and the petitioner is entitled to all the monetary, attendant benefits till the date of his reinstatement. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

- 1) The Chairman,
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+1CC to M/s.P.Rajendran, Advocate, Sr.No.37251
+1CC to Mr.P.Subramaniam, Advocate, Sr.No.37306

W.P.No.34689 of 2005

SMI (CO)
K.RK. (17.09.2021)