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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1664 of 2016

and

WMP.No.1440 of 2016

T.Sivaguru

... Petitioner

Vs

- 1.Neyveli Lignite Corporation Ltd.,
Rep by its Director (HR),
Corporate Office, Block -I,
Neyveli Township - 607 801.
- 2.The Chief General Manager (HR), NLC Ltd.,
Corporate Office, Block -I,
Neyveli Township - 607 801.
- 3.The Additional Chief Manager/Finance/Mine II,
Disciplinary Authority,
Neyveli Lignite Corporation Ltd.,
Corporate Office, Block -I,
Neyveli Township - 607 801.
- 4.The Chief General Manager/Mine II,
Appellate Authority,
Township Administrative Office,
Neyveli Lignite Corporation Ltd.,
Neyveli Township - 607 801.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in its impugned Order in Memo No.M-II/ HR/DA CELL/ 552/1298/2013 dated 28.11.2014 and quash the same and consequently direct the respondents to grant the petitioner promotion to Chief Wireless Operator Selection Grade with SG II Scale with effect from 1.7.1998 and promotion to Selection Grade III with effect from 28.11.2014 and subsequent promotions with all consequential attendant monetary benefits award cost.



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For Petitioner : Mr.K.Sathiyamurthi

For R1 to R3, R4 : Mr.F.B.Benjamin George

ORDER

The relief sought for in this writ petition is to issue a writ of certiorarified mandamus calling for the records relating to the order of the third respondent in Memo No.M-II/ HR/ DA CELL/ 552/1298/2013 dated 28.11.2014 and quash the same and consequently direct the respondents to grant the petitioner promotion to Chief Wireless Operator Selection Grade with SG-II Scale with effect from 01.07.1998 and promotion to Selection Grade III Scale with effect from 28.11.2014 and subsequent promotions with all consequential attendant and monetary benefits.

2.According to the petitioner, while he was working as Chief WCC Operator Special Grade, he was subjected to disciplinary proceedings for the alleged misconduct of producing fake certificates, which ended in punishment of demotion to the Lower Category as Technician Grade III/ C in W3 Grade in the scale of pay of Rs.10300-3%-28390 (W3) on the petitioner and his basic pay in the demoted post was fixed at Rs.19,270/- vide proceedings dated 28.11.2014 by the 3rd respondent. Challenging the said proceedings, the petitioner has come forward with the present writ petition for the aforesaid relief.

3.Upon notice, the respondents filed a detailed counter affidavit, inter alia stating that the respondents selected and appointed the persons including the petitioner based on the certificates produced by them, which later on verification, came to know that the petitioner has produced fake certificates and he did not possess the required qualification for holding the post of wireless cum communication operator and hence, disciplinary proceedings was initiated against him; and since the petitioner was found guilty of the charges, which are grave in nature, he was imposed with the punishment of demotion by the order impugned herein. Thus, according to the respondents, no interference is required at the hands of this Court.

4.Heard both sides and perused the materials placed before this Court.

5.It is seen at paragraph 12 of the proceedings impugned herein that an appeal remedy is available to the petitioner before the Appellate Authority, Deputy General Manager / Finance



/ Mine -II. Without exhausting the said remedy, the petitioner has rushed to this Court with the present writ petition to quash the said proceedings issued by the third respondent. Therefore, this Court deems it appropriate to direct the petitioner to first avail the appeal remedy.

6. Accordingly, the petitioner is directed to file an appeal before the Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. On such filing, the Appellate Authority shall entertain the same, without raising any ground as regards the limitation aspect and consider the same and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of four weeks thereafter.

7. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

mtl

To

1. The Director (HR),
Neyveli Lignite Corporation Ltd.,
Corporate Office, Block -I,
Neyveli Township - 607 801.
2. The Chief General Manager (HR), NLC Ltd.,
Corporate Office, Block -I,
Neyveli Township - 607 801.
3. The Additional Chief Manager/Finance/Mine II,
Disciplinary Authority,
Neyveli Lignite Corporation Ltd.,
Corporate Office, Block -I,
Neyveli Township - 607 801.



4.The Chief General Manager/Mine II,
Appellate Authority,
Township Administrative Office,
Neyveli Lignite Corporation Ltd.,
Neyveli Township - 607 801.

+1cc to Mr.F.B.Benjamin George, Advocate Sr.18965
+1cc to Mr.K.Sathiyamurthy, Advocate Sr.18717

W.P.No.1664 of 2016

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srg 15/07/2021