



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.28089 of 2015

&

M.P.Nos.1&2 of 2015 and W.M.P.No.20008 of 2017

M.Kamalanathan

... Petitioner

Vs.

1.The Chairman and Managing Director (TNEB Ltd)
Tamil Nadu Generation and Distribution Corporation
Anna Salai
Chennai-2

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

3.The Chief Engineer (Distribution) TNEB Ltd
Tamil Nadu Generation and Distribution Corporation
Chennai South Zone
Anna Salai, Chennai-2
formerly known as
The Chief Engineer Distribution (TNEB Ltd)
Vellore Zone- Vellore

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records connected in Memo No. 013244/441/Ni.A/P.1/2012-1 dated 27.01.2014 passed by the 3rd respondent and Board Standing order (permanent) Chairman and Managing Director No.63, Administrative Branch, dated 27.03.2015 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.G.Elanchezhian

For Respondents : Mr.P.Subramanian,
Standing Counsel

- - - - -



O R D E R

WEB COPY The petitioner was working as a Junior Engineer in Tamilnadu Electricity Board. He was issued with a charge memo on 29.05.2011 for a misconduct of receiving illegal gratification for effecting a new electricity service connection to one Johnson. During enquiry, the witnesses have turned hostile and stated that they have not bribed the Junior Engineer nor there was any demand from him. It is further stated that the complaint was written by one Babu and Parthasarathy due to previous enmity between them and the delinquent Kamalanathan. The second witness of the prosecution refused to submit himself for cross examination and his evidence stood eschewed. The third witness is the Executive Engineer before whom the witnesses affirm that there was no demand from Kamalanathan, the petitioner herein and they have not paid any bribe for getting service connection. Therefore, the Executive Engineer caused an enquiry to be conducted by the officials of the Vigilance and Anti Corruption department. On 24.01.2012, the defacto complainant Johnson has stated that he had forgotten the contents of the complaint as one year had passed. Further, the compliant was given due to the previous enmity between the Junior Engineer and one Parthasarathy. He has not paid any money to the petitioner or to any officials of Tamilnadu Electricity Board but paid Rs.1500/- and Rs.10,000/- to Parthasarathy. Based on this evidence the enquiry officer has arrived at a finding that it appears some money transaction had happened therefore the charges were held to be proved.

2. The Disciplinary Authority had accepted the findings of the enquiry officer and imposed the punishment in his proceedings memo No. 013244/441/Na/b1/2012-1 dated 27.01.2014 as stoppage of next annual increment shall be at the rate of 3% pay and the grade pay for a period of one year with cumulative effect including the period if any spent on leave. On appeal preferred by the petitioner, the Appellate authority has confirmed the punishment.

3. Challenging the same the learned counsel for the petitioner would vehemently contend that the charge itself is without materials and baseless. Further the finding given by the enquiry officer was based on assumption and the order of the Disciplinary authority is a non speaking order and without application of mind. The Appellate authority also passed a very cryptic order without recording any reasons, therefore it should be set aside.



4. Learned counsel for the respondent would defend the punishment order on the ground that prima facie there are materials to show that there was some money transaction for a sum of Rs.1500/- and Rs.10,000/- was paid for getting single phase electricity connection. The money need not have been paid to anybody else, but it should have been only to the official. The allegations therefore stands proved against the petitioner and therefore the punishment order need not be interfered with.

5. From the perusal of the materials placed before this Court, it is noted that all the witnesses including the defacto complainant have not supported the charge. Infact they turned hostile and made a positive statement that there was no demand of bribe by the petitioner and that they have not paid anything to the petitioner. Apart from this, a statement was made that the complaint was actuated by malafides due to the previous enmity between the petitioner and one Babu and Parthasarathy. No materials were produced before the enquiry officer to show that there was enmity between the petitioner and the so called persons who have inimically disposed against him. There is no proof with regard to payment of bribe to the petitioner or that after receipt of the same service connection was granted. The defacto complainant would further state that he had given a complaint in order to retain the electricity service connection given to him, for, he apprehended that it would be disconnected by the petitioner. Therefore on the instigation of Babu and Parthasarathy, he has given the complaint. This means that the electricity connection was already been given and the complaint was given in order to prevent disconnection. In that event the charge that the petitioner demanded money for giving electricity connection is without basis. Therefore, this Court is of the considered opinion that the findings of the enquiry officer is based on no evidence and thereby perverse.

6. Further more, it is expected that the Disciplinary authority shall apply its mind to the charge memo, the explanation submitted by the petitioner, the conduct of enquiry proceedings compliance of principles of natural justice, the enquiry report and the objections filed by the delinquent against the enquiry report. It is not expected that the Disciplinary Authority should pass an very elaborate order, but it should contain the material points for the reasons recorded when a finding is arrived and also the proportionality of the punishment is discussed in the punishment order.

7. In the instant case, both the orders of the Disciplinary Authority as well as the Appellate Authority are very cryptic without discussing the material evidence, the objections raised by the petitioner and without recording the proportionality of the punishment but mechanically passed an order extracting the



routine matters.

8. The Appellate authority also like the Disciplinary authority has stated that they have perused the charges, enquiry report, objections submitted by the petitioner and confirmed the punishment. Such cryptic orders are opposed to principles of natural justice and it amounts to exercise of power on whims and fancies. Such arbitrary orders would not stand the test of scrutiny of law. Therefore, the above impugned orders are not sustainable and liable to be set aside. Accordingly, the impugned order passed by the 3rd respondent in Memo No. 013244/441/Ni.A/P.1/2012-1 dated 27.01.2014 and Board Standing order (permanent) Chairman and Managing Director No.63, Administrative Branch, dated 27.03.2015 passed by the 2nd respondent are set aside and the respondents are directed to rework the monetary benefits of the petitioner as per the above order within a period of three months from the date of receipt of a copy of this order.

In fine, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kpr

1.The Chairman and Managing Director (TNEB Ltd)
Tamil Nadu Generation and Distribution Corporation
Anna Salai
Chennai-2

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

3.The Chief Engineer (Distribution) TNEB Ltd
Tamil Nadu Generation and Distribution Corporation
Chennai South Zone
Anna Salai, Chennai-2
formerly known as
The Chief Engineer Distribution (TNEB Ltd)
Vellore Zone- Vellore



+1cc to Mr.G.Elanchezhiyan, Advocate, S.R.No.36178
+1cc to Mr.P.Subramanian, Advocate, S.R.No.36331

WEB COPY

W.P.No.28089 of 2015

&

M.P.Nos.1&2 of 2015 and W.M.P.No.20008 of 2017

PL (CO)
CB (05/10/2021)