



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.719 of 2012

WEB COPY

S.Manikandan

... Appellant/Writ Petitioner
Vs.

1.Tamil Nadu Electricity Board,
Rep. by the Superintending Engineer,
Production Circle,
Tamil Nadu Electricity Board,
Tirunelveli.

2.The Executive Engineer,
Tamil Nadu Electricity Board,
Periyar Project,
Periyar,
Theni District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 24.11.2010 made in W.P(MD)No.10084 of 2010 on the file of this Court.

Prayer in WP(MD). 10084/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI calling for the records relating to the order bearing No. கு/அ/எண் 400/நி.நி.நெ.1/கோ1/ஒந/10/ dated 05.07.2010 issued by the first respondent confirming the order bearing No.கு.எண்.செ.வா/நி.நி.வா/உதவி./கோ.கட. 6/ இந.எண்.26/2009, dated 17.9.2009 issued by the second respondent and quash the same.

For Appellant : Mr.T.Antony Arul Raj

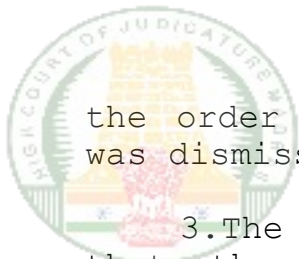
For Respondents : Mr.T.Sakthi Kumaran
Standing Counsel

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

This Writ Appeal is directed against the order, dated 24.11.2010 passed in W.P(MD)No.10084 of 2010.

2.The said Writ Petition was originally filed by the appellant/writ petitioner for a Writ of Certiorari, to quash the order dated 05.07.2010 passed by the first respondent, confirming



the order dated 17.09.2009 passed by the second respondent, which was dismissed by the learned Single Judge on 24.11.2010.

3.The learned counsel appearing for the appellant would submit that the appellant was a Junior Engineer and the appointing authority for him is only the Superintending Engineer. While there was a proposal to levy only a minor penalty, the impugned proceedings have ended in imposing a major penalty, which is now under challenge.

4.According to the learned counsel for the appellant, major penalty cannot be imposed without following the procedures under the Regulation 8(b) of the Tamil Nadu Electricity Board Discipline and Appeal Regulations. It is also pointed out by the learned counsel for the appellant that though the charges were framed under Regulation 8(a) of the Tamil Nadu Electricity Board Discipline and Appeal Regulations, the punishment imposed with stoppage of increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, procedure under Regulation 8(b) is not followed, as it does not attract the delinquency as listed in the Rules.

5.As the charges framed had fall under Regulation 8(a) and the show-cause notice was also issued under Regulation 8(a), the Authorities have erroneously imposed the punishment which is a major one ie., the stoppage of increment for a period of one year with cumulative effect. Therefore, we are of the view that since it falls under Regulation 8(a), it will be only with stoppage of increment for a period of one year without cumulative effect.

6.The learned counsel appearing for the respondents also fairly conceded that it is the procedure contemplated based on the Regulation.

7.In view of the above, the impugned order dated 05.07.2010 passed by the first respondent, confirming the order dated 17.09.2009 passed by the second respondent, is modified to the effect that there will be a stoppage of increment for a period of one year without cumulative effect. Accordingly, the Writ Appeal is partly allowed. No costs.

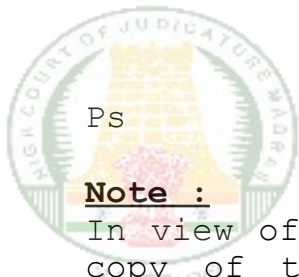
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Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar(CS)



Ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-5191[F] dated 15/02/2021)

W.A(MD)No.719 of 2012
12.02.2021

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