



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD)No.5514 of 2012

and

M.P. (MD)No.1 of 2012

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N.Indira

... Petitioner

Vs.

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai, Chennai-600 002.
- 2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai, Chennai-600 002.
- 3.The Chief Engineer(Distribution),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Tirunelveli Region, Tirunelveli.
- 4.The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Nagercoil, Kanyakumari District.
- 5.A.Bagavathiappan Pillai,
Superintending Engineer, (Then)
Kanyakumari Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Nagercoil, Kanyakumari District.

And now

The Chief Engineer(Distribution),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Tirunelveli Region, Tirunelveli.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records relating to the proceedings of the fourth respondent in his proceedings in Memo No.002029/ADM.III/D.1/2010-2, dated 24.06.2010 and the order passed by the third respondent on appeal in CE/D/TIN's Memo NO.012246/267/ADM/C21/2011, dated 28.10.2011 and quash the same.



For Petitioner : Mr.T.Arul
For Respondents : Mr.T.Sakthikumaran
Standing Counsel for R.1 to R.4

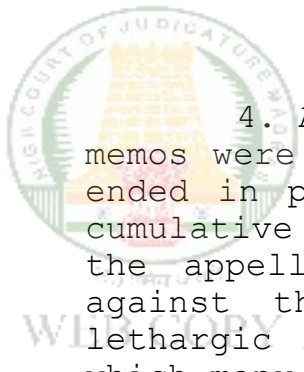
ORDER

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This Writ Petition is filed seeking for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the fourth respondent in Memo No.002029/ADM.III/D.1/2010-2, dated 24.06.2010 and the order passed by the third respondent on appeal in CE/D/TIN's Memo NO.012246/267/ADM/C21/2011, dated 28.10.2011 and quash the same.

2. The case of the petitioner is that she joined in the respondent Board as a Technical Assistant in the year 1988 through direct recruitment. After completion of B.E., she was selected as Assistant Engineer (Electrical) by internal selection in the year 2002. The petitioner rendered her services in various circles and joined as Assistant Engineer/Materials Management, in the office of the Superintending Engineer, Kanyakumari Distribution Circle at Nagercoil on 13.09.2008 and she has rendering her service to the fullest satisfaction of the Board without any blemish whatsoever. While so, when the petitioner was working in the Materials Management Section of the Circle Office, she was entrusted with the responsibility of processing papers for placing local purchase orders under the Limited Tender System. As an Assistant Engineer, it was incumbent on the petitioner to assist the Tender Scrutiny Committee in sending the tender notices to all the possible/registered tenderers, posting them on the TNEB web site without exemption and putting up notes in a transparent manner to the Tender Committee to decide about the reasonableness of the rates offered by the lowest tenderers by comparing with the previous rates at which the same materials had been previously purchased and the rates at which the same materials are being purchased at other circles of TNEB.

3. *In spite* of the best efforts taken by the petitioner, the above procedures were flouted very often with impunity while floating and scrutinizing of tenders for the purchase of line materials and consumables in Kanyakumari Distribution Circle, due to the high handedness of one A.Bagavathiappan Pillai, the official who was holding the post of fourth respondent from 18.02.2008, even before the joining of the petitioner in the said section. The fourth respondent, has done this activity, by abusing his official position, in order to favour a few selected tenderers through illegal means and the said irregularities were noticed by the petitioner and the same were taken to the notice of the higher officials, for which, the fourth respondent acted annoyed and he issued charge memos against the petitioner in order to cover all his misdeeds.



4. All the other charge memos were dropped and some of charge memos were ended in warning, except this charge memo, wherein it is ended in punishment of postponement of one year increment without cumulative effect and on appeal, it was reduced to three months by the appellate authority. The sum and substance of the charge against the petitioner is that the petitioner was very much lethargic in dealing with the materials management subject due to which many difficulties were experienced by field staff in execution of Board's works in time.

5. Learned Counsel appearing for the petitioner would submit that the charge memo issued against the petitioner is very flimsy and that the procedural aspect will depend upon the other officers along with the petitioner and the petitioner alone cannot take decision in respect of accepting the purchase books. It is depending upon the several officers working under the petitioner in the material management section and the allegation made against the petitioner alone is not correct. Further, when the petitioner repeatedly made allegations against the fourth respondent, the fourth respondent himself issued charge memos against the petitioner and conducting enquiry, imposed punishment against the petitioner is unsustainable one and charge memos were issued due to the tussles between the petitioner and the fourth respondent and all those charge memos were reversed and modified by the appellate authority at the instance of the petitioner. In view of the above, the present charge issued against the petitioner is *malafide* and the same was liable to be quashed and accordingly, the learned Counsel would pray for appropriate orders.

6. Per contra, learned Standing Counsel appearing for the respondents 1 to 4 would submit that the material management section works related to local purchase order section and the processing or placing local purchase order on various materials work was carried out by the petitioner. Further it was noticed that the petitioner was very much lethargic in dealing with this subject and due to which, many difficulties were being experienced by field officials in execution of Board's works in time. In the present case, the orders for purchase of 400 numbers of work order application books had been placed on 08.07.2008 and as per the terms and conditions of the purchase order, the supplier should have supplied the books within 30 days from the date of intimation of the approved proof and as such the materials should have been supplied on or before 08.10.2008, however, the entire quantity of materials have been supplied only on 21.12.2009 and the draft for approval to accept the materials supplied belatedly has been put up by the petitioner only on 19.01.2010, after a lapse of one month from the date of receipt of materials and hence, explanation was called for from the petitioner vide order dated 30.01.2010 after following the disciplinary proceedings and imposed a penalty to withhold the next increment of the petitioner for a period of one year vide order dated 06.02.2010 and the petitioner preferred an appeal before the



third respondent and the third respondent reduced the punishment of postponement of the next increment for a period of three months vide order dated 28.10.2011. Hence, the learned Standing Counsel would submit that there is no infirmity in the impugned order and therefore, he would pray for dismissal of the writ petition.

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7. Heard the learned Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 4 and perused the materials placed on record.

8. Admittedly, the petitioner entered into service as Technical Assistant and after completion of B.E., she was posted as Assistant Engineer and after serving in various circles, she joined as Assistant Engineer/Materials Management at the office of the Superintending Engineer, Kanyakumari Electricity Distribution Circle. While the petitioner was serving in the above said Circle, she was served with charge memo by the fourth respondent. It is also an admitted fact that as against the fourth respondent, the petitioner made several allegations with regard to tender awarding system in respect of awarding tenders to the selected tenderers. It is also an admitted fact that the fourth respondent issued several charge memos against the petitioner, which resulted in punishment and subsequently it was modified by the appellate authority as warning, except this charge memo, which was ended in punishment of postponement of one year increment without cumulative effect and on appeal, it was reduced to three months by the appellate authority.

9. The crucial issue arises for consideration is that the petitioner herself made allegations against the fourth respondent with regard to his functioning, in awarding tenders in respect of certain persons. This Court perused the charge memo issued by the fourth respondent, dated 24.06.2010. On a perusal of the charge memo, it would reveal that the petitioner was very much lethargic in dealing with the purchase orders and as per the terms and conditions of the purchase order, the supplier should have supplied the books within 30 days from the date of intimation of the approved proof, however the entire materials have been supplied only on 21.12.2009 and the draft approval was put up by the petitioner only on 19.01.2010. The allegation against the petitioner is that she approved the materials on the delay of 30 days, after receipt of supply order, however, that delay was occurred on account of several officials in the accounts section, who were allegedly not co-operating with the petitioner.

10. On a bare perusal of the above charge, it would reveal that it was only a flimsy charge, for which the punishment imposed by the original authority, subsequently modified by the appellate authority, warrants interference. Further, the original authority as well as the appellate authority had not pointed out the violations committed by the petitioner in terms of Rules and the Board. Without pointing out any rules and



regulations, the order of punishment imposed by the original authority, which was modified by the appellate authority is unsustainable one.

11. For the reasons stated above, the impugned order passed by the fourth respondent, dated 24.06.2010 and the modified order passed by the third respondent, dated 28.10.2011 are set aside and accordingly, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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.

To

- 1.The Chairman cum Managing Director,
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Tamil Nadu Generation and Distribution
Corporation Ltd.,
Nagercoil, Kanyakumari District.
- +1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-4127[F] dated 09/02/2021)
+1 CC to M/s.M.P.SENTHIL, Advocate (SR-4169[F] dated 10/02/2021)

W.P (MD) No.5514 of 2012
25.01.2021

SRK (CO)