



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 22312 of 2015

G. Ponnu pandy

:Petitioner

..VS..

1.The Chief Engineer (Distribution),
TANGEDCO,
Madurai Region,
Madurai - 625 007.

2.The Superintending Engineer,
TANGEDCO,
Dindigul Distribution Circle,
Dindigul.

: Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of punishment passed by the 2nd respondent in his proceeding in Ku.No.028881/580/Ni.Pi.3/Ni.U.2/Ko.O.Na/ 2013-5, dated 30.04.2014 and the consequential impugned order passed by the 1st respondent in his proceedings in Memo No. 009228/502/D3/2014-12, dated 26.12.2014, quash the both as illegal and consequently directing the respondents to settle all the retirement and other benefits to the petitioner forthwith.

For Petitioner	: Mr. S. Loius
For respondents	: Mr. T. Sakthikumaran Standing counsel

O R D E R

This petition has been filed challenging the final order, dated 30.04.2014 passed by the 2nd respondent and the consequential order, dated 26.12.2014 which was passed by the appellate authority.

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2. The brief facts of the case are that the petitioner joined in the respondent Corporation as Temporary Casual Labour on 16.05.1971, was made permanent in the post of helper on 01.01.1977. Thereafter, was promoted as Assistant Draughtsman in Civil/ Construction wing, then promoted as Draughtsman, then as Junior Engineer / Electrical Grade - II on 30.02.1992 and then Junior Engineer / Electrical Grade-I on 17.02.1997. When the petitioner was working as Junior Engineer Grade I / Rural Kodaikanal certain irregularities were found and certain complaints were received and show cause notice, dated 02.09.1997 was issued alleging the petitioner received a sum of Rs.8,400/- from one Palaniappan for the additional load given to his service connection and made to pay wages for three days to the contract labourers.

3. The petitioner alleges that the incident happened three years before and the petitioner could not recollect the incident and requested to furnish the basic complaint for the above allegation vide order dated 07.12.2000. The respondent provided a letter dated 29.04.2000. Thereafter, the petitioner submitted an explanation on 15.05.2000. In the explanation the petitioner has contended that the said allegation only due to the vengeance and the enquiry is also pending. But the respondent proceeded with the enquiry by issuing a charge memo, dated 11.08.2000. The petitioner submitted an explanation on 23.08.2000. Thereafter, the enquiry Officer was appointed and the enquiry was conducted, but, there was some discrepancy on the date of hearing. The petitioner submits that he attended enquiry from 10.10.2000, but, was adjourned to 21.11.2000, 20.01.2001, 17.03.2001 and 27.03.2001. In all these above hearing, the management witness did not present. Thereafter, enquiry was fixed on 21.04.2001 without intimating the same to the petitioner and the enquiry was proceeded as ex parte and the enquiry officer has held the charges were proved. The 2nd respondent after receipt of the enquiry report, called for further explanation vide proceeding, dated 23.08.2013. In the explanation the petitioner has submitted no opportunity was granted to defend the case before the Enquiry Officer and alleged vengeance as well. The second respondent without considering the explanation has imposed the punishment of stoppage of increment for two years with cumulative effect vide order dated 30.04.2014. Aggrieved over the order, the petitioner preferred an appeal before the first respondent on 30.05.2014. But the first respondent had confirmed the order of punishment on 26.12.2014. Against the orders of the respondents 1 and 2, dated 26.12.2014 and 30.04.2014 the present Writ petitions have been filed.



4. The respondents have filed a detailed counter reiterating the charges framed against the petitioner. The regulation 3(a) of TNEB Employees Conduct Regulations mandates that every employee shall at all times maintain absolute integrity and devotion to duty as per regulation 3(c) of the said regulations that every employee shall observe Rules of procedure in all matter and also abide by Rules, Regulations, orders and circulars that may be issued from time to time by Board or by any appropriate officers of the Board. The respondent alleged the lapses committed by the petitioner is grave in nature and hence, the charges were framed. Hence, the charges viz., two corruption and disobeyed of mandatory rules were framed against the petitioner. The explanation submitted by the petitioner is neither convincing nor acceptable and in order to give reasonable opportunity an Enquiry Officer was appointed. As far as the allegation of not granting opportunity, it was denied by the respondents stating adequate opportunity was granted even to cross examine the witness. The petitioner did not attend the enquiry on 19.02.2000, 20.01.2001, but the witness were examined and statement were obtained. Thereafter the petitioner sought to cross examine the Board side witness during the enquiry fixed on 17.03.2001 and 20.03.2001. The petitioner deliberately dragged the enquiry by not attending the enquiry on scheduled date. The Enquiry Officer has held all the charges were proved.

5. Heard Mr. Louis learned Counsel appearing for the petitioner and the Mr. Sakthikumaran learned Counsel appearing for the respondent.

6. It is seen from the enquiry report that the petitioner has not appeared in more than one occasion and therefore the claim of the petitioner that opportunity was not granted and thereby violation of natural justice is not acceptable.

7. As far as the charge that the petitioner made the consumer to pay the wages of the contract labourer is concerned, the respondent has not proved the same since the respondent has not stated that the Board allotted adequate amount to pay the contract labourer for the work and inspite of the same the petitioner made the consumer to pay the amount to the labourer. Therefore this Court holds that the 2nd charge is not proved.

8. As far as the 1st charge, that the petitioner demanded Rs.10,000/- and has received Rs.8400/- is concerned, except the complainant there is no evidence to prove the same. One Vairamuthu, Assistant Executive Engineer has deposed that the complainant had informed him that he had paid the amount and his evidence is not acceptable. The Board has not stated that to carry



out the work, the estimate was arrived at and the Board had sanctioned the amount, and inspite of the same the petitioner has received the amount from the said Palaniappan. Therefore this Court is of the opinion that the Enquiry Officer has come to the conclusion on the evidence of the complainant alone without any corroborating evidence.

9. For the reasons stated above, this Court is inclined to modify the punishment. Moreover it is seen that the petitioner has attained superannuation. Hence this Court is of the opinion that the punishment ought to be modified as stoppage of increment for two years without cumulative effect to meet the ends of justice. Therefore, the respondents are directed to give effect to this order of stoppage of increment without cumulative effect and disburse the terminal benefits within a period of six weeks from the date of receipt of a copy of this order.

10. In the result, the writ petition is partly allowed.
No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Trp

To

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Madurai - 625 007.

2.The Superintending Engineer,
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Dindigul.

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