



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20559 of 2012

T.S.Sudarsan

...Petitioner

-Vs-

1. Tamil Nadu Generation &
Distribution Corporation Ltd. (TNEB),
Rep. by its Chairman-cum-Managing Director,
144, Anna Salai, Chennai - 600 002.

2. The Chairman,
Tamil Nadu Generation &
Distribution Corporation Ltd. (TNEB),
144, Anna Salai, Chennai - 600 002.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in per FB TANGEDCO proceeding No.35, dated 18th June, 2012, confirming the orders of the 2nd respondent in CMD TANGEDCO proceeding No.81 dated 11.04.2012 and quash the same and direct the respondents to refund the withheld Death-cum-Retirement Gratuity of Rs.1,65,000/-

For Petitioner : Mr.C.S.Krishnamoorthy

For Respondents: Mr.P.Subramanian

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2.Through a proceeding dated 24.12.2009, the petitioner herein was permitted to retire on attaining the age of superannuation, with effect from 31.12.2009. Prior to the retirement, a departmental action was initiated against him on the basis of a charge memo dated 11.05.2009. After his retirement, the respondents have chosen to proceed with the departmental enquiry, whereby the charges were held to be 'not



proved'. However, the Disciplinary Authority chose to differ from the findings and accordingly imposed a punishment of recovery of a sum of Rs.1,65,000/- from the Death-cum-Retirement Gratuity benefits, on 11.04.2012, which came to be confirmed in an appeal on 18.06.2012. Aggrieved against the punishment, the present writ petition has been filed.

3.Fundamental Rule 56 states that a Government servant cannot be retained in service after the age of retirement, except with a sanction of the Government. In the present case, the respondents have permitted the petitioner to retire from his services and thereafter had proceeded with the departmental action. Such a proceeding is opposed to the Fundamental Rules and when, admittedly, no sanction of the Government is obtained, the employer-employee relationship between the petitioner and the respondents have ceased to exist. Hence, the consequential punishment imposed, based on the enquiry conducted after the petitioner's retirement, cannot be sustained. This proposition was ratified in many decisions of this Court, including the case of E.Munusamy vs The Superintending Engineer, TANGEDCO passed in W.P.No.35507 of 2015 dated 10.01.2022.

4.In the light of the above observations, the impugned order dated 18.06.2012 is quashed. In view of the quashing of the punishment, the respondents shall forthwith disburse the sum of Rs.1,65,000/-, which is said to be retained by them, to the petitioner, within a period of six (6) weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar(CS-II)

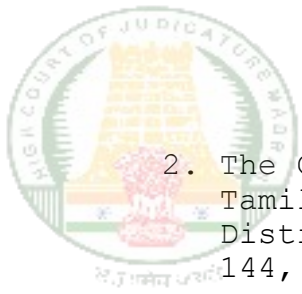
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Sub Assistant Registrar

hvk

To

1. The Chairman-cum Managing Director,
Tamil Nadu Generation &
Distribution Corporation Ltd. (TNEB),
144, Anna Salai, Chennai - 600 002.



2. The Chairman,
Tamil Nadu Generation &
Distribution Corporation Ltd. (TNEB),
144, Anna Salai, Chennai - 600 002.

WEB COPY

+1cc to Mr.Subramanian, Advocate, S.R.No.12172

+1cc to Mr.Krishnamoorthy, Advocate, S.R.No.12116

W.P.No.20559 of 2012

MG (CO)
RGA (11/03/2022)