



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.35507 OF 2015

E.Munusamy

... Petitioner

.Vs.

1. The Superintending Enginner,
The Tamil Nadu Generation and
Distribution Corporation,
Kanchipuram Electricity Distribution Circle,
Kanchipuram.
2. The Chief Engineer/Distribution,
Chennai South Region,
The Tamil Nadu Generation and
Distribution Corporation,
No.144, Anna Salai,
Chennai - 2.
3. The Chairman,
The Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 2.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other writ calling for the records of the second respondent in Memo.No.01181/29/NEEA/B1/2014-4 dated 10.7.2014 confirming the order of the 1st respondent in Memo No.505/NM dt. NB4/NU2/KO/M/2013-8 dated 04.12.2013, quash the same and direct the respondents to refund the terminal benefit amount of Rs.7,12,800/- with interest.

For Petitioner : Mr.A.S.Balaji

For Respondents : Mr.P.Subramanian
Standing Counsel
For TANGEDCO



O R D E R

The petitioner herein, was employed under the respondent Corporation. On 31.08.2012, when the petitioner had reached the age of superannuation, he was permitted to retire and accordingly relieved from the services on 31.08.2012. Thereafter, the respondents have framed charges against the petitioner on 28.09.2013 and consequently imposed a punishment of "Reduction of pay of the minimum of Scale of Pay for the period of 3 years" on 4.12.2013. The appeal against the punishment was also rejected on 10.07.2014. Challenging the punishment, the present Writ Petition has been filed.

2. The fundamental Rule 56(1), forbears the continuation and initiation of any departmental action against an Government employee after his or her retirement. This Court in several decisions have held that in view of fundamental Rule 56(1), the employer-employee relationship between the concerned department and employee ceases to exist after the Government employee retired and therefore he cannot be proceeded with departmental action. On this settled principle of law, the charges framed after the petitioner's retirement and the consequential punishment imposed cannot be sustained.

3. The learned Counsel for the respondents would submit that, when the petitioner was permitted to retire, he was relieved without prejudice to the outcome of the disciplinary proceedings already initiated. Such a submission cannot be sustained. If at all, the respondents intended to proceed with a departmental action initiated against the employee, the only option available to them is to place such an employee under suspension and not permit him to retire, pending the contemplated departmental action. Contrary to such a option available, the respondents have chosen to relieve the petitioner and permitted him to retire and also disbursed the retirement benefits to the petitioner after withholding portion of the same in view of the pending disciplinary action. In this factual background, the subsequent action of framing of charges and proceeding further, cannot be sustained, in view of the bar under Fundamental Rule 56(1).

4. For all the forgoing reasons, the Writ petitioner is entitled to succeed. Consequently, the impugned order passed by the second respondent in Memo.No.01181/29/NEEA/B1/2014-4 dated 10.7.2014 confirming the order of the 1st respondent in Memo No.505/NM dt. NB4/NU2/KO/M/2013-8 dated 4.12.2013 is quashed. Consequently, there shall be a direction to the 1st respondent herein to disburse the entire terminal benefits including the pensionary benefits to the petitioner, atleast within a period



of four (04) weeks from the date of receipt of a copy of this order. This Writ petition stands allowed, accordingly. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintending Enginner,
The Tamil Nadu Generation and
Distribution Corporation,
Kanchipuram Electricity Distribution Circle,
Kanchipuram.
2. The Chief Engineer/Distribution,
Chennai South Region,
The Tamil Nadu Generation and
Distribution Corporation,
No.144, Anna Salai,
Chennai - 2.
3. The Chairman,
The Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 2.

+1cc to Mr.A.S.Balaji, Advocate, S.R.No.1804
+1cc to Mr.P.Subramanian, Advocate, S.R.No.1834

W.P.NO.35507 OF 2015

GPL(CO)
PBS/14/02/2022