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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN  
AND  
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.NO. 2070 OF 2021 AND  
C.M.P.NO.13108 OF 2021

1. The Chief General Manager (Mine 1 & 1A)  
Neyveli Lignite Corporation Limited,  
(Presently known as M/s.NLC India Limited),  
Block-26, Neyveli-607 803.
2. The Director (Personnel),  
(Presently known as The Director/HR)  
Neyveli Lignite Corporation Limited,  
(Presently known as M/s NLC India Limited),  
Office of the Chairman,  
Block-1, Neyveli-607 801.
3. The Disciplinary Authority,  
E.E./Computer/Mine-1,  
Neyveli Lignite Corporation Limited,  
(Presently known as M/s NLC India Limited),  
Block-26, Neyveli-607 803.

... Appellants/  
Respondents

-vs-

A.Angelin Monica

.... Respondent/  
Petitioner

Prayer:

Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the impugned order dated 31.03.2021 passed in W.P.No.46360 of 2006 so far as the direction given in Paragraph No.32 (ii) and the consequent findings in the impugned order being contrary to law, facts and materials on record.



Prayer in W.P.No.46360 of 2006:

Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari calling for the records from the file of the 3rd respondent made in Proceeding No.Proc.No.M-I/P&A/DAC/278-118/06 dated 19.10.2006 and quash the same.

|                |                     |
|----------------|---------------------|
| For Appellants | : Mr.N.Nithianandam |
| For Respondent | : Mr.L.Chandrakumar |

#### J U D G M E N T

S.VAIDYANATHAN., J  
and  
MOHAMMED SHAFFIQ., J

The Present Appeal has been preferred against the order of the learned Single Judge dated 31.03.2021, made in W.P.No.46360 of 2006.

2. The Writ Petitioner was imposed with an order of punishment of Censure dated 19.10.2006, which is for a period of six months and in the month of April 2007, the said punishment period was over. The Writ Petitioner has approached this Court by way of filing a Writ Petition in W.P.No.46360 of 2006, questioning the said order dated 19.10.2006. Before the learned Single Judge, it was argued by the learned counsel for the Writ Petitioner that even assuming that the petitioner was inflicted with the punishment of Censure, the effect of the same would be for only for a period of six months and after undergoing the punishment period or after the currency of punishment period, the service benefits accrued to the Writ Petitioner should be extended to her. The learned Single Judge vide order dated 31.03.2021 has passed the following order.:

"32.Therefore, for these reasons discussed above, this Court is of the considered view that, certainly the relief sought for by the petitioner, as projected by the learned counsel appearing for the petitioner, can be moulded and be granted to the petitioner. Accordingly, this writ petition is disposed of with the following orders.



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(i) That the order of punishment which is impugned herein dated 19.10.2006, in view of the stand taken by the petitioner that it has been implemented, will have no further effect beyond the six months period from 19.10.2006, accordingly, the said order dated 19.10.2006 need not be interfered with.

(ii) Consequentially, there shall be a direction to the respondents to implement the order of appointment dated 21.05.2006 made in favour of the petitioner by posting or placing the petitioner in executive post or executive position scale or category in Mine-I/Comp. Serv. or in any other Department. It is made clear that, since in the order of appointment dated 21.05.2006 itself, it has been stated clearly that the pay and emoluments i.e. consequential monetary benefits and pay fixation will be given only on joining the appointed post, since the petitioner has not joined in the said post till date, no benefits on such appointment monetarily would accrue on the petitioner except for notional benefits and all monetary benefits shall be paid to the petitioner only from the date actually the petitioner would join pursuant to the implementation of the order dated 21.05.2006, as directed above. The needful as indicated above, shall be undertaken by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

33. With these directions, this Writ Petition is ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed. "

3. Aggrieved by the aforesaid direction, the Present Writ Appeal has been filed by the Appellants who were Respondents before the learned Single Judge.



4. The learned counsel appearing for the Appellants contended that though the Writ Petitioner/Respondent has challenged only the punishment of Censure and as there is no alternative pleading averred in the prayer, the learned Single Judge ought not to have granted the reliefs as stated supra beyond the pleadings, which resulted in miscarriage of justice. It is further contended that the panel for promotion to the post of Executive was to expire on 19.09.2006 and at the relevant point of time the Writ Petitioner was undergoing punishment and therefore, her candidature was not considered. He also contended that the Enquiry Officer found the Writ petitioner guilty of charges, which has been accepted by the Disciplinary Authority and the punishment of Censure imposed has become final and after disposal of the Writ Petition, entire vacancies have been filled up, which disentitled the Writ Petitioner from getting the relief, pursuant to the order in the Writ Petition, as the Appellants had to fill up the vacancies before expiry of the panel, despite the fact that one post was kept vacant.

5. It is further contention of the learned counsel for the Appellants that on account of the disciplinary action initiated against the Writ Petitioner and that the panel was to expire, all the vacancies have been filled up. He further submitted that the relief that has been granted by the learned Single Judge for considering the case of the Writ Petitioner against future vacancy does not arise at all, as there was no such plea by the Writ Petitioner. He further submitted that there was a delay/laches in seeking the relief, as the Writ Petitioner was imposed with the punishment of Censure in October 2006 and a representation was made on 23.11.2006 and thereafter she did not pursue with the matter and kept quiet. The Writ Petitioner, after getting documents under the Right to Information Act, has started raising the issue belatedly and therefore, this Court could not have granted the relief to consider her case in future.

6. The learned counsel appearing for the Appellants also drew the attention of this Court to the decision of the First Bench of this Court in S.Thilagavathy Versus The State of Tamil Nadu in W.A.No.621 of 1998 dated 22.01.2020, wherein this Court has held that Court can mould the relief but it cannot go completely beyond the prayer in the Writ Petition. He therefore prays to set aside the order of the learned Single Judge.

7. The learned counsel appearing for the Respondent/Writ Petitioner submitted that the learned Single Judge, has brushed aside the contention of the Appellants/Respondents by observing as follows:



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"31. Without taking any such decision on behalf of the respondents, making a plea now stating that, automatically the selection made in favour of the petitioner gets lapsed after a particular time, may not be justifiable in view of the peculiar facts, which, this Court is dealing with in this writ petition as the petitioner was suffered only with the punishment of censure and that punishment of censure cannot take away the right accrued on the petitioner for getting an appointment in the executive post, for which, due selection process went on where the petitioner based on interse merit had been selected and order of appointment or offer of appointment was made available."

Therefore, the learned Single Judge has rightly moulded the relief and accepted the prayer of the Writ Petitioner as stated supra, which does not warrant interference by this Court.

8. Heard both sides. Perused the records.

9. It is not in dispute that the Writ Petitioner was imposed with punishment of 'Censure' on 19.10.2006 and since the punishment was imposed, the case of the petitioner for promotion was not considered. Admittedly, there were vacancies and that one post was kept vacant till the disposal of the disciplinary proceedings or before the expiry of the Panel. It is no doubt true that there are no pleadings in the Writ Petition, but however the learned Single Judge in the order dated 31.03.2021, by observing that certainly the relief sought for by the Writ Petitioner, as projected by the learned counsel appearing for the Writ Petitioner can be moulded and granted the relief, which is extracted supra.

10. The learned Single Judge has not interfered with the order of punishment and based on the stand taken by the Writ Petitioner regarding the effect of punishment, a direction was issued to the Appellants to consider the case of the Writ Petitioner prospectively, on account of delay/laches. Hence, we find no error or illegality in the order of the learned Single Judge in granting the relief. The Appellants shall consider the case of the Writ Petitioner and accommodate her in an executive post or executive position, within a period of three months from the date of receipt of a copy of this order.



11. With the above observation and direction, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

1. The Chief General Manager (Mine 1 & 1A)  
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Block-26, Neyveli-607 803.

+1cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.11155

W.A.No. 2070 of 2021

SRA (CO)  
PM/19/04/2022