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W.P.No.31609 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31609 of 2014

J.Sahayaraj

...Petitioner

Vs.

1.The Director/HR,
Neyveli Lignite Corporation Limited,
Neyveli – 607 801.

2.The General Manager,
Appellate Authority,
Office of the General Manager,
Thermal Power Station-I,
NLC Limited, Neyveli – 607 807.

3.The Disciplinary Authority,
DESIGN:ACM/B.M./TPS-1,
Thermal Power Station-I,
NLC Limited, Neyveli – 607 807.

4.The Head Master,
Panchayat Union Elementary
School, Veppankurichi,
Neyveli 2.At present in Charge of
Panchayat Union Elementary School,
Gangaikondan Colony, Neyveli-2.
(R4 – impleaded as per order dated 10.11.2021
made in W.M.P.No.16947/2021 in
W.P.No.31609 of 2014)

..Respondents



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Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd respondent in Memo No.TSI/P & A/G4/0170/600/2008 dated 31.05.2008 as confirmed by the Appellate Authority, namely the 2nd respondent in Memo No.TSI/P & A/G4/0170/600/2008, dated 02.12.2008 and quash the same and direct the Respondents to reinstate the petitioners in service with full backwages, continuity of service and all other attendant service benefits.

For Petitioner	: M/s.Ilakkia For M/s.T.P.Prabakaran
For Respondents	: Mr.F.B.Benjamin George [For R1 to R3]
	No appearance for R4

ORDER

The order of removal from service issued by the Appointing Authority, which was confirmed by the Appellate Authority are under challenge in the present writ petition.

2. The petitioner states that he was appointed as an Attender/trainee on 23.10.1989 on Compassionate Grounds.



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3. The qualification required for the post of Attender/trainee was only that the candidate should know how to read and write in Tamil. The petitioner states that there is no minimum educational qualification prescribed for the said post of Attender. He was appointed on Compassionate grounds due to the death of his father Sri Joseph James, who was an employee of the Neyveli Lignite Corporation. His father served about 20 years. At the time of the death of his father, he was 20 years old. The petitioner was promoted as Senior Attender on 02.08.1997. The post of Senior Attender was re-designated as Industrial Worker Grade-I by order dated 22.06.1999. The petitioner was issued with a call letter to attend a interview for time bound promotion from the post of Industrial Worker Grade-I to Technical Grade-III C. The petitioner attended the interview on 27.05.2004 and came out successfully.

4. The petitioner received a charge memo dated 22.03.2007, stating that he got employment as Attender/Trainee under the deceased employment category on production of bogus educational 6th Standard pass certificate issued by the Headmaster Panchayat Union Higher Elementary School Ammen Kokkankuppam, Neyveli-2. The petitioner submitted his explanation, stating that he was not aware that the 6th Standard certificate



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produced by him was a bogus one. The petitioner explained the situation, under which, he got the employment.

5. The petitioner states that his maternal uncle, arranged a job for him under the deceased employment category in the NLC. At the time of interview, the petitioner was only asked to read the Tamil weekly Magazine “Kumutham”. Read it to the satisfaction of the Officers, the petitioner was appointed as Attender/trainee. The respondent Management conducted a domestic enquiry with reference to the charge memo issued. The petitioner explained the circumstances, under which, his uncle produced the educational certificate, which was found to be not incorrect. However, the charge of producing incorrect certificate was proved before the domestic enquiry. Accepting the findings of the Enquiry Officer, the Disciplinary Authority issued a second show cause notice on 12.03.2008, proposing the punishment of removal from service. The petitioner states that the copy of the findings of the Enquiry Officer was not given to him. He was forced to approached the High Court and the High Court in W.P.No.7794 of 2008, passed an order on 31.03.2008, directed the respondents to furnish a copy of the Enquiry report to the writ petitioner. After receiving the said copy of the Enquiry report, the petitioner submitted his further objections on the



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findings. The Disciplinary Authority arrived a conclusion that the certificate dated 04.04.2007 issued by the Headmaster, R.C.Primary School, Kombady, Thalavaipuram did not relate to the writ petitioner. Finally, the Disciplinary Authority had not accepted the certificate produced by the writ petitioner and imposed the penalty of removal from service in order dated 31.05.2008. The petitioner preferred an appeal before the second respondent on 14.06.2008 and the said appeal was rejected on 02.12.2008.

6. The learned counsel for the petitioner mainly contended that the petitioner second time produced the certificate after verification of the School records. The Headmaster also acknowledged the genuinity of the certificate issued to the writ petitioner based on the records maintained by the School. In spite of that, the Disciplinary Authority imposed the major penalty of removal from service and therefore, the order impugned is liable to be set aside. It is contended that there is no requirement for furnishing information regarding qualification for employment on Compassionate grounds since the petitioner was appointed to the post of Attender/trainee, for which, knowledge in reading and writing is sufficient.



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7. The learned counsel for the respondents objected the contentions put forth by the petitioners by stating that the petitioner is a workman governed by the Certified Standing Orders of the Corporation and under the provisions of Industrial Disputes Act, 1947, the departmental proceedings were initiated against the petitioner under the Certified Standing Orders of the Corporation. Thus, the petitioner has an effective and efficacious remedy under the provisions of Industrial Disputes Act, 1947. The petitioner raised a disputed questions of facts, which cannot be determined in a petition under Article 226 of the Constitution of India. Thus, the present writ petition is to be rejected.

8. It is contended that the petitioner was appointed as Attender/trainee on 23.10.1989 on compassionate grounds. A complaint was received by the Chief Vigilance Officer of the Corporation, questioning the genuineness of the Educational Certificate dated 05.06.1978 produced by the petitioner at the time of seeking employment and the said certificate was verified with the School concerned. After verifying the said certificate with the School Records on 06.02.2007, the Headmaster of the Panchayat Union Higher Secondary School, Ammeri Kokkankuppam, Neyveli-2, confirmed that the said certificate produced by the petitioner dated 05.06.1978 was bogus.



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9. According to the report of the said Headmaster, the Admission No.1220 found in the Certificate dated 05.06.1978 belonged to one Selvi.K.Tamizharasi. Therefore, the Chief Vigilance Officer directed the Corporation to initiate Disciplinary proceedings against the petitioner. Furtherance to the said Charge Memorandum was issued to the petitioner by the Disciplinary Authority on 22.03.2007 and thereafter, an enquiry was conducted by affording an opportunity to the writ petitioner.

10. The petitioner filed an additional typed set of papers, wherein, he had produced two study certificates. Two certificates were signed by the different Headmaster from different Schools. It is contended that the School, in which, the petitioner studied was closed and the records were maintained by the other School. However, there is a doubt in respect of these two certificates as it seems to be written in a same handwriting by making certain changes. The respondents after verifying the genuinity of the certificate, found that the first certificate produced by the writ petitioner at the time of appointment was a bogus certificate. The petitioner had submitted another certificate subsequently, that was also verified by the respondents and subsequently, the action was initiated.



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11. The petitioner filed additional typed set of papers, wherein, he has furnished copies of two School Study certificates. The first certificate dated 21.08.2001 was issued by the Headmaster of Panchayat Union Elementary School, Gangaikondan colony, Neyveli-2. The second Study certificate was signed by the Headmaster, Panchayat Union Elementary School, Veppankurichi, Neyveli.

12. Perusal of these two certificates reveal that the handwriting appears to be same and certain changes are made in the entries. The second certificate was issued on 28.01.2016.

13. The learned counsel for the respondents made a submission that certain fraudulent entries were made and the consequential bogus certificate was issued. The Chief Vigilance Officer verified the said certificate with the School records on 06.02.2007. The Headmaster of the Panchayat Union Higher Secondary School, Ammeri Kokkankuppam, Neyveli, confirmed that the said certificate produced by the petitioner dated 05.06.1978 was bogus. However, in the second certificate furnished by the petitioner, the Admission number has been stated as 693. But the certificate produced before the respondents at the time of admission, the Admission Number was stated as



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1220 and in the said admission Number, the name of Selvi.K.Tamizharasi was found in the register. Therefore, the respondents have made a submission that certain insertions were made mysteriously subsequently, in order to issue the certificate and in respect of such fraudulent activities, further actions under the criminal law is also to be initiated.

14. This Court is of an opinion that the Enquiry Officer in his report, made the following observations and conclusion:

Observations

Prosecution exhibits PE-1 to PE-3 substantiate that Sri.J.Sahayaraj, CPF:No:34692, IW Gr:I BO Division, TS1, had produced bogus educational 6th Std pass certificate issued by Head master, P.U.Hr.Ele.School, Ammeri Kokkankuppam, Neyveli-2. Also, the certificate issued by Headmaster, RC Primary School, Kombady, Thalavaipuram, indicates that his educational qualification is 5th Std pass, and that he had studied in RC Primary School, Kombady, Thalavaipuram, Thoothukkudi, in contrary to the contents in the certificate under reference PE-2.

Conclusion

From the above facts it is concluded that the charges



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*leveled against Sri.J.Sahayaraj, CPF:No:34692, IW Gr:I,
BO Division, TSI, have been proved beyond doubt.*

15. Perusal of the Enquiry Report and the order of removal from service, this Court do not find any procedural infirmity or perversity in the matter of conducting the enquiry and arriving a conclusion.

16. The power of judicial review by the High Court under Article 226 of the Constitution of India is to ensure the processes, through which, a decision is taken by the competent authorities in consonance with the Statutes and Rules in force, but not the decision itself.

17. In the present case, the disciplinary proceedings were conducted in accordance with the established procedures laid down and by affording an opportunity to the charge official. The petitioner also participated in the process of enquiry and defended his case. However, the petitioner could not able to disapprove the allegations of submission of bogus educational certificate at the time of securing appointment. Contrarily, the respondent could able to establish that the certificate produced by the writ petitioner at the time of appointment was bogus and therefore, imposed the penalty of



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removal from service and the said penalty cannot be construed as disproportionate to the gravity of the charges. The production of the bogus certificate for the purpose of securing employment is a grave misconduct and that apart, even during the course of enquiry, the petitioner had submitted further educational certificate, which was also not matching with the original certificate and the petitioner had further made an attempt to mislead the authorities.

18. This being the factum established, the writ petition deserves no further consideration from the hands of this Court.

19. Accordingly, the writ petition stands devoid of merits and stands dismissed. No costs.

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Index : Yes
Speaking order: Yes
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To

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Neyveli Lignite Corporation Limited,
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2. The General Manager,



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S.M.SUBRAMANIAM, J.

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