



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD).No.10212 of 2015

C.Thangakani

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Electricity Board,
Kanyakumari Distribution Circle,
Nagercoil,
Kanyakumari District.

2.The Executive Engineer,
Distribution, Nagercoil,
Tamil Nadu Electricity Board,
Kanyakumari District.

3.The Assistant Executive Engineer,
Distribution, Tamil Nadu Electricity Board,
Kottaram, Nagercoil,
Kanyakumari District.

... Respondents

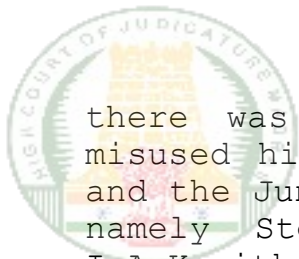
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to impugned order passed by the second respondent in கு.எண் 4759/நி.நி.மே/2013-5 நாள் 17.02.2014 and the order of the first respondent in கு.எண் 01915592/நி.நி.3/19.1/2014 நாள் 01.08.2014 and quash the same.

For Petitioner : Mr.N.Dilip Kumar
For Respondents : Mr.S.Arivalagan,
Standing Counsel.

ORDER

This Writ Petition has been filed to quash the impugned order dated 17.02.2014 and 01.08.2014.

2.The brief facts of the case are that the petitioner was working as Junior Engineer Grade - II. The disciplinary proceedings were initiated against the petitioner by issuing show cause notice dated 17.01.2013. The allegations against the petitioner were one Dhanalakshmi submitted application for new service connection. Since



there was delay in granting service connection, the petitioner misused his office and threatened the Assistant Executive Engineer and the Junior Engineer Grade - I. The Assistant Executive Engineer namely Stephen along with Junior Engineer Grade - I namely I.A.Kavitha and Commercial Inspector namely Eliezer lodged a complaint against the petitioner. The petitioner requested for certain documents vide letter dated 28.01.2013. Finally, the petitioner submitted his reply on 15.03.2013. The modified charge memo was issued on 26.04.2013. Thereafter, an Enquiry Officer was appointed and a second show cause notice dated 28.10.2013 was issued. The petitioner submitted his explanation on 16.12.2013. Thereafter, a minor punishment of postponement of increment for one year without cumulative effect was imposed on the petitioner. The petitioner preferred an appeal and vide impugned order dated 01.08.2014, the punishment was confirmed. Aggrieved over the punishment order and the appellate order, the petitioner has preferred this Writ Petition.

3.The respondents had filed a counter stating that the consumer namely Dhanalakshmi is the sister of the writ petitioner. When the said Dhanalakshmi submitted her application for new service connection, the petitioner has misused his office and has intimidated the concerned officials to process the application early and grant service connection. The complaint was given by the affected officials namely ER.Stephen/Assistant Executive Engineer, Boothapandy and I.A.Kavitha/Junior Engineer Grade - I and Thiru.Eliazer/Commercial Inspector requested to take action against the writ petitioner for his unnecessary involvement in giving service connection to Dhanalakshmi. Thereafter, a charge memo was issued. In the enquiry, natural justice was granted to the petitioner. Thereafter, based on the enquiry report, the punishment was imposed. The petitioner preferred an appeal and the grounds raised was not convincing. Therefore, the appellate authority confirmed the punishment. The petitioner in order to drag on the proceedings demanded to cross examine the witness which are not related to the allegations. After the currency of punishment, he will be considered for further promotion and therefore prayed to dismiss the Writ Petition.

4.Heard Mr.N.Dilip Kumar, learned counsel for the petitioner and Mr.S.Arivalagan, learned Standing Counsel for the respondents.

5.The contention of the petitioner is that his voice itself is making others think that he is intimidating and threatening others and has relied on the statement of Kavitha where he has deposed normally itself the petitioner would speak in the same voice and therefore prayed to allow the Writ Petition. Even in the enquiry, the first and second charges alone was held to be proved, the third charge was not proved. The Learned Counsel for the respondent submitted that the fact remains that the said Dhanalakshmi is the



6. On perusing the entire records, it is seen that the punishment was imposed on 17.02.2014 and currency would start from March 2014. Since it is without cumulative effect, the currency of punishment would have ended in March 2015. Even according to the petitioner, the juniors were promoted in May 2015 and the next promotion was granted to other juniors in February 2016. If the check period is not considered, then the petitioner would be eligible for promotion in May 2015 itself. Since in **Deputy Inspector General of Police Vs V. Rani reported in 2011 (3) CTC 129**, this Court has held check period is a new invention by the employer where there is no statutory sanction for it, check period should not be considered. The Government has amended rules by G.O.Ms.No.22, Personnel and Administrative Reforms Department was issued on 24.02.2014 and the Tamil Nadu Civil Services (Conduct and Appeal) Rules was amended and the TANGEDCO has also adopted the said rules. The said rule is challenged before this Court. In Rani's case, the check period itself is considered as double punishment to the employee. Therefore, this Court is of the considered view the check period cannot be imposed on the delinquent.

7. Therefore the petitioner is eligible for promotion from May 2015 onwards, since the currency of the punishment from March 2014 to March 2015 is not affecting the promotion, which was granted to the juniors in May 2015. This Court is not inclined to modify the punishment, but the respondents are directed to include the petitioner's name in the panel of 2015 and grant promotion on par with his juniors promotion in May 2015 and also grant the consequential benefits.

8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Superintending Engineer,
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+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-9873[F] dated 03/03/2022)

W.P. (MD) .No.10212 of 2015
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RS (21.03.2022) 4P-5C