



W.P(MD)No.12490 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12490 of 2018

and

W.M.P.(MD)No.11361 of 2018

K.Selvaraj

... Petitioner

Vs.

1.The Superintending Engineer,
Theni Electricity Distribution Circle,
TANGEDCO, Theni.

2.The Executive Engineer,
Distribution, Periyakulam,
Theni 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 the impugned order of the 1st respondent in K.No. 09126/1392/MePo/Theni/Ni.A/NiPi1/Vu3/Ko.Marai/2016-3 dated 26.4.2018 and the impugned order of the 2nd respondent in K.No.487/Se.Po/ Pa/ Peri/Vu.Ni.A/ Ni.Me/Ni. Vu3/ Ko.Vu.Ni/18, dated 4.5.2018 quash the same.

For Petitioner : Mr.M.Prbhakaran

For Respondents : Mrs.M.Parameswari



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ORDER

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Heard the learned counsel on either side.

2. The writ petitioner was engaged as Contract Labour on temporary basis by TNEB from the year 1995. He was absorbed into regular service as Field Assistant (Helper) with effect from 08.06.2009. This absorption was in view of 12(3) settlement entered into between Union and the Management of TANGEDCO. The petitioner was issued with charge memo dated 29.11.2016 alleging that he produced the bogus school certificate. Enquiry was held and it was found out that certificate produced by the petitioner was fake. The charges framed against the petitioner were held to be proved and he was levied with punishment of reduction of pay to the minimum time scale of pay for a period of three years with cumulative effect. Challenging the same, this writ petition has been filed.

3. The respondents have filed counter affidavit. The learned standing counsel took me through its contents. The learned standing counsel submitted that for production of bogus certificate, the petitioner could have been removed from service. Instead, the employer had taken lenient and indulgent view and imposed the punishment of reduction of pay for a period of three years. My attention is



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drawn to the orders passed by the Hon'ble Division Bench in W.A.Nos.2454 & 2589 of 2022, dated 18.12.2002 and W.A.Nos.3621 of 2020, dated 20.12.2002.

In similar cases also, it had been recommended that instead of dismissing the workman from service, punishment that is similar to the one on hand was recommended to be imposed. The learned standing counsel submitted that the Management has been adopting a consistent approach and that therefore, the petitioner cannot have any grievance. She pressed for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record.

5. It is not in dispute that the petitioner produced a bogus certificate. But the question that arises for consideration is whether on this ground, he should be levied with the impugned punishment. The impugned punishment does have three fold consequences on the petitioner. His pay has been reduced to the minimum scale for a period of three years. Only at the end of three years, the petitioner's earlier pay will be resumed. But then, even his future increment will stand postponed. On account of the punishment, his promotion chances will be affected. Therefore, the overall facts cannot be lost sight of.



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The writ petitioner admittedly is virtually an illiterate. He had studied hardly upto 4th standard. The petitioner joined as Casual Labour in the year 1995 and was absorbed as Helper in the year 2009. The said post does not require any educational qualification.

6. In the cases relied on by the learned standing counsel, the issue involved the possession of educational qualification. In the case on hand, the petitioner was asked to produce his school certificate only for age proof. The petitioner being an illiterate had requested the Union leaders to assist him. The transfer certificate which admittedly is fake was produced. The respondents were justified in initiating the proceedings against the petitioner.

7. The only question is whether they were justified in imposing the punishment. The fake certificate is in English and obviously, the petitioner could not have read it. If the petitioner had any intention, he would definitely not have produced the same. This is because, the petitioner had studied in the Panchayat Union Primary School, Ayyankovilpatti, Vathalagundu. His date of birth has been mentioned as 05.05.1977. But in the bogus certificate, his date of birth has been mentioned as 07.03.1975. When the petitioner was asked to produce the school certificate only for age proof, by producing the bogus



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certificate, he said to have lost two full years. It is well settled that a person can be said to be guilty of misconduct only if there is ill-motive. In this case, the petitioner does not have any ill-motive. He was innocent and naïve. He blindly trusted the Union leaders and that is how, he came to produce the fake certificate. While the respondents are justified in initiating the charge memo, they ought to have dropped the proceedings, once the true facts came to light.

8. In this view of the matter, the order impugned in the writ petition is set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2022

Index : Yes / No
Internet : Yes/ No
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