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W.P.(MD)No.22336 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.22336 of 2019

and

W.M.P.(MD)Nos.19103 and 19104 of 2019

A.Abiraham

... Petitioner

vs.

- 1.The Superintending Engineer/
Disciplinary Authority,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Maharaja Nagar,
Tirunelveli District – 11.
- 2.The Assistant Executive Engineer/
Enquiry Officer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Maharaja Nagar,
Tirunelveli District – 11.



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3.The Executive Engineer/ Urban,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
VM Chatram,
Tirunelveli District-11.

4.The District Education Officer,
Office of the District Education Officer,
Thoothukudi District.

5.The Head Master,
T.N.D.T.A. Primary School,
Konarkulam,
Srivaikundam Taluk,
Thoothukudi District.

... Respondents

***(R4 and R5 are impleaded, vide Court
order, dated 18.04.2022, in W.M.P.(MD)
No.5059 of 2022, in W.P.(MD)No.
22336 of 2019)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of punishment of reduction in time scale of present pay of Rs. 28,600/- to the basis pay in the post of Wireman of Rs.19,500/- for a period of 3 years with cumulative effective (including leave period) in Ku.Aa.No. 007526/239/Ni Pi.4/U1/Ko.Disciplinary Proceedings/2019, dated 25.04.2019, on



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the file of the respondent No.1 and to quash the same as illegal and consequently, to direct the respondent Nos.1 and 3 to restore the petitioner's pay of Rs.28,600/- from the month of May 2019.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.S.Arivalagan

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order of punishment of reduction in time scale of present pay of Rs.28,600/- to the basis pay in the post of Wireman of Rs.19,500/- for a period of 3 years with cumulative effective (including leave period) in Ku.Aa.No. 007526/239/Ni Pi.4/U1/Ko.Disciplinary Proceedings/2019, dated 25.04.2019, on the file of the respondent No.1 and consequently, to direct the respondent Nos.1 and 3 to restore the petitioner's pay of Rs.28,600/- from the month of May 2019.

2. The petitioner joined the respondent Corporation as Temporary Casual



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Labour on consolidated pay on 13.02.2008 and was brought under regular time scale of pay and appointed as Mazdoor on 15.06.2009. Thereafter, on 26.06.2017, promoted as Helper and then promoted as Wireman on 20.03.2018. A charge memo, dated 18.04.2018, was issued charging that the petitioner had produced bogus educational certificate, i.e., record sheet as if the petitioner has passed 5th standard and the petitioner's date of birth was on 20.03.1975 from T.D.T.A Primary School, Konarkukam, Thoothukudi District at the time of appointment of Mazdoor for the purpose of basic educational qualification and date of birth and therefore, violated rules of TNEB. The petitioner sought time to submit an explanation. But the respondents without granting time appointed enquiry officer vide proceedings, dated 04.01.2018. In the meantime, the petitioner has produced District Educational Officer's certificate, whereby, the authority has stated that the petitioner has studied in T.D.T.A. School, Konarkulam, up to 8th standard and the admission number is 789 and date of birth is 24.03.1979 based on the school records. But the then Headmaster of the School



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has issued the record sheet by wrongly mentioning admission number as 317 and the date of birth as 20.03.1975. The enquiry officer has held that the petitioner has not submitted bogus certificate but a mistake has occurred in issuing the bogus certificated by the authority concerned. However, the disciplinary authority has not accepted the same and has held that at the time of enquiry, the petitioner submitted that he had completed 5th standard on 31.05.1986 and the birth date as 20.03.1975. The petitioner has not denied that he had submitted the wrong certificate at the time of appointment. Therefore, the disciplinary authority has come to the conclusion that the petitioner is liable for some punishment and imposed a punishment of reduction in salary for 3 stages, which will have cumulative effect. Challenging the same, the present writ petition is filed.

3. The respondents have filed a counter affidavit stating that the petitioner had not only submitted bogus certificate but had also confirmed in the official proceedings by stating that he has completed 5th standard but subsequent



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proceedings and the communications issued by the authority as well as the District Educational Officer states that the petitioner had completed 8th standard but the petitioner had submitted in the enquiry that he had completed only 5th standard. As far as the charge in the charge memo is concerned, the respondents submitted that the enquiry officer has only held it is not the mistake of the petitioner but the fact remains that the petitioner has produced the same. Hence, the petitioner is liable to some punishment and appropriate punishment was imposed, even though the petitioner is liable for dismissal from service. Therefore, the learned Standing Counsel for the respondents prayed to sustain punishment.

4. On perusing the records, it is seen that the Headmaster of T.D.T.A. School, Konarkulam and the District Educational Officer has stated that the then Headmaster had issued the certificate mentioning the admission number and the date of birth wrongly. Since it is not the mistake of the petitioner, this Court is of



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the considered opinion that the punishment is disproportionate. Therefore, this Court is inclined to modify the punishment.

5. The second charge is that during the enquiry proceedings also the petitioner had submitted that he had passed 5th standard but on record it is stated that the petitioner had passed 8th standard and joined in 9th standard but discontinued. This fact has not been challenged by the petitioner. At this juncture the learned Standing Counsel for the respondents submitted that in the two certificates, the date of birth varies. Therefore, the respondents are directed to take age as 75.

6. Therefore based on the above facts and circumstances, this Court is inclined to modify the punishment as stoppage of increment for one year without cumulative effect. The respondents are directed to implement the modified punishment and consequently grant all benefits. The said exercise shall be



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completed within a period of 8 weeks from the date of receipt of your copy of this order.

7. With the above said observation, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes

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