



W.P.(MD).No.5770 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5770 of 2017

and

W.M.P.(MD).No.4594 of 2017

C.Manikandan

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai – 600 002.
- 2.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Annasalai, NPKRR Maligai,
Chennai – 600 002.
- 3.The Chief Engineer (Distribution),
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Tirunelveli – 627 011.
- 4.The Superintending Engineer,
O/o the Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Kanyakumari Electricity Distribution Circle,
Nagercoil Post,
Kanyakumari District.



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5. The Executive Engineer,
O/o.the Executive Engineer (Distribution),
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Kuzhithurai Post,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the fourth respondent in Memo No.045500/Ni Pi3/D.1/2014-7 dated 03.05.2014 and the consequential appellate orders passed by the third respondent in Memo Ku.Aa.No. 017032/755/Ni Pi/C1 / 2014 dated 11.11.2014 and the order passed by the second respondent in (Per) TANGEDCO (CMD) Proceedings No.32, dated 10.05.2016 and quash the same and consequently direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits.

For Petitioner : Mr.M.Saravana Kumar

For R-1 to R-5 : Mr.S.Arivalagan,
Standing Counsel.

ORDER

This Writ Petition has been filed for Writ of Certiorarified Mandamus, to quash the impugned order dated 03.05.2014 and the consequential appellate order dated 11.11.2014 and the order passed in proceedings no.32 dated 10.05.2016 and consequently direct the respondents to reinstate the petitioner in service with all attendant and monetary benefits.



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2. The brief facts as stated in the affidavit are that the petitioner was initially appointed as Technical Assistant on 29.07.1998 in Tamil Nadu Electricity Board. Subsequently, he was promoted as Junior Engineer Grade-II on 01.09.1999 and further promoted as Junior Engineer Grade-I on 30.06.2005. The petitioner had paralysis attack and heart problem and subsequently, it was developed to a condition that the petitioner could not tolerate the body pain and neck pain and because of this, he could not concentrate in his work. This was reported to the respondents also. The petitioner applied medical leave for some period with the permission of the respondents. However, the fifth respondent has issued Suspension order dated 02.03.2013 on the ground that the grave charges are contemplated against the petitioner. On 08.03.2013, a memo was issued stating that due to petitioner's ill health, he was not able to discharge his official duty in proper manner and the petitioner was forced to place under suspension. Thereafter, the petitioner was referred to the Medical Board through proceedings dated 06.09.2013. Therefore, a charge memo dated 10.09.2013 was issued by the fourth respondent, thereby, charges were framed stating that due to ill health, the petitioner was not able to continue in his day-to-day work and control his subordinates, thereby, damaged the name of the Board among the public. The petitioner requested to furnish the documents mentioned in the charge memo, but the respondents vide proceedings dated



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23.10.2013 refused to furnish the documents. Therefore, without scrutinizing the documents, the petitioner submitted explanation dated 28.10.2013 and requested the fourth respondent to drop the charges framed against the petitioner. The petitioner submitted a representation dated 26.11.2013 requesting to drop the disciplinary proceedings and to permit the petitioner to retire from service under Voluntary Retirement Scheme. Without considering his applications and request, the respondents appointed enquiry officer, whereby, the enquiry officer issued enquiry notice dated 21.12.2013 and stated that the domestic enquiry was fixed on 08.01.2014. But, the enquiry was adjourned to 21.01.2014. The contention of the petitioner is that the enquiry officer did not appoint any prosecutor and conducted the enquiry in a biased manner and closed the enquiry on the same day itself without examining the defence witnesses and without marking the documents. In the meantime, as per the request made by the fourth respondent, the District Medical Board directed the petitioner to appear before them on 12.02.2014 and the petitioner appeared on the same day and the Medical Board issued a report that the petitioner is not able to do his work. The fourth respondent communicated the enquiry report on 13.03.2014 and directed the petitioner to submit further explanation. The petitioner submitted his detailed explanation on 16.04.2014 and categorically stated that the enquiry officer acted in a biased way. Without considering the



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explanation, the fourth respondent issued second Show Cause Notice dated 11.04.2014. On receipt of the same, the petitioner submitted detailed explanation on 19.04.2014 requested to drop the disciplinary proceedings. Without taking all these factors into consideration, the fourth respondent passed the punishment order imposing the punishment of compulsory retirement vide proceedings dated 03.05.2014 against which the petitioner preferred an appeal. Without assigning any reasons, the third respondent vide his proceedings dated 11.11.2014 dismissed the appeal. Thereafter, the petitioner filed Mercy Petition before the first respondent and the same was dismissed vide proceedings No.2 dated 10.05.2016 without assigning any valid reasons. The contention of the petitioner is that without assigning any reasons and without considering the petitioner's request for voluntary retirement, the impugned orders were passed. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents have filed a counter stating that the petitioner was irregular in discharging his duties and he was unable to manage the office. Hence there was many irregularities, misappropriation of Board's money and lack of supervision of the staff under his control who were misguided by his activities to commit mistakes and violation of Board's rules. Ultimately, the TNEB name was damaged. Therefore, the disciplinary proceeding was initiated against the petitioner, wherein, the punishment of compulsory retirement was



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imposed on him. Since the petitioner has not raised any valid grounds, the appeal and the mercy petition were dismissed. Since the petitioner has committed dereliction of duty, the petitioner was imposed with the punishment of compulsory retirement. Hence the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.M.Saravana Kumar, learned counsel for the petitioner and Mr.S.Arivalagan, learned Standing Counsel for respondents 1 to 5.

5. It is an admitted fact that the petitioner submitted representation dated 27.11.2013 that because of the ill health, he was not able to continue his duty and prayed before the respondents to grant voluntary retirement under the scheme. The respondents had not considered this petition at all. Without considering this petition, the respondents proceeded with the disciplinary proceedings and imposed the punishment of compulsory retirement. If the respondents considered the voluntary retirement petition, then the disciplinary proceedings are not necessary at all. Interestingly, the respondents did not deny the fact regarding ill health of the petitioner and has accepted that the petitioner had heart problem and paralysis attack. The Medical Board also confirmed the same and the Medical Board report states that he is not able to work. If the respondents have taken a sympathetic view after considering all these factors,



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then the respondents ought to have granted voluntary retirement to the petitioner.

6. Therefore, this Court is of the considered opinion that the punishment of compulsory retirement ought to be quashed and is hereby quashed. The petitioner shall be allowed to go under Voluntary Retirement Scheme from 26.11.2013. The respondents are directed to re-work based on the voluntary retirement and disburse all monetary and attendant benefits within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

07.11.2022

Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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