



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) No. 8676 of 2016

and

W.M.P. (MD) No. 6935 of 2016

WEB COPY

D.Syria Pushpam Sinnarani

... Petitioner

vs.

1.TANGEDCO,

represented by its Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tirunelveli- 11.

2.TANGEDCO,

represented by its Superintending Engineer,
Generation Circle, Tirunelveli-11.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the record relating to the impugned order in கு.ஆ.எண்.05178/134/நி.பி.4/உ.1/கோ.ஒழுங்கு நடவடிக்கை/14-2015, dated 28.03.2016, passed by the 1st respondent and consequential order of the 2nd respondent in கு.ஆ.எண்.மேபொ/உவ/திலி/சபபி/உ-5/கோ.தணிக்கை/2016, dated 11.4.2016 and to quash the same.

For Petitioner

: Mr.B.Brijesh Kishore

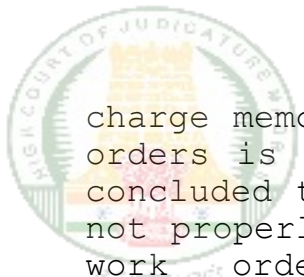
For R1 and R2

: (*)**Mr.S.Arivalagan,**
Standing Counsel

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the record relating to the impugned order in கு.ஆ.எண்.05178/134/நி.பி.4/உ.1/கோ.ஒழுங்கு நடவடிக்கை/14-2015, dated 28.03.2016, passed by the 1st respondent and consequential order of the 2nd respondent in கு.ஆ.எண்.மேபொ/உவ/திலி/சபபி/உ-5/கோ.தணிக்கை/2016, dated 11.4.2016 and to quash the same.

2.The brief facts of the case are that the petitioner joined the respondent Corporation as Technical Assistant in the year 1987. Thereafter, promoted as Junior Engineer Grade II in 1996. Then, as Junior Engineer Grade I on 08.01.2003. The petitioner was posted in Tirunelveli district. Thereafter, the petitioner was relieved from the said post posted in Parvathipuram, Kanyakumari District. Later, relieved on 03.01.2007. A charge memo, dated 26.05.2007 and 17.08.2007, was issued stating that the petitioner had not closed the work order No.26. The petitioner has submitted a reply. A



charge memo was issued on 27.07.2012 stating that the value of work orders is to the tune of Rs.68,98,053/-. On enquiry, it has been concluded that the work has been carried out but the petitioner has not properly accounted for a portion of materials in respect of two work orders bearing No.656/E6/54-1, dated 25.08.2003 and No.656/E6/55-1, dated 25.08.2003. The enquiry report states that there was no information regarding handing over of the old aluminum electric wires which were dismantled from the works place. The petitioner submitted a reply on 23.01.2015, that the petitioner has already accounted for the said materials, vide Devolution Nos.54441, dated 13.12.2006, from the petitioner's account number 62-949. The petitioner's specific stand is that the petitioner has handed over all the materials before relieving. This reply was specifically referred by the first respondent who called for a report from the Executive Engineer, Valliyoor. The Executive Engineer has only submitted a remark to the effect that there was no material to show that the works orders, dated 25.08.2003, was closed.

3. There is no reference or mention about the petitioner's stand in the Devolution Nos.54441, dated 13.12.2006, from the petitioners account number 62-949, the said work orders had been closed. However, the respondents without considering the petitioner's reply, the first respondent had levied the penalty of stoppage of increment for two years with cumulative effect.

4. Further, the materials which are nothing but scrap valued at Rs.31,300/- was quantified as loss. Interest has also been levied on the said amount and the same has been calculated from the date of work orders, thereby, the interest Rs.1,18,083/- was ordered to be recovered from the petitioner's salary in 10 installments. Aggrieved over the same, the present Writ Petition is filed.

5. The respondents have not filed a counter affidavit, but relied on the impugned order, dated 28.03.2016 and substantiated

6. Heard Mr.B.Brijesh Kishore, learned Counsel appearing for the petitioner and perused the records placed before this Court.

7. The contention of the petitioner is that the petitioner has already handed over all the charges as per Devolution Nos.54441, dated 13.12.2006. The respondents have not taken into account the said submission. Even in the impugned order, there is no reference of such Devolution Nos.54441, dated 13.12.2006. The contention of the petitioner is that because of this impugned punishment, the petitioner was not considered for the further promotion. The respondents have paid annual increment on 15.04.2020 and also paid increment for the year 2019, vide memo, dated 25.04.2019. However, the petitioner was not considered for the panel that was prepared, vide proceedings, dated 15.02.2020. Therefore, the petitioner submitted that because of the impugned order of punishment and the



8.It is seen from the record that based on the interim order, dated 28.04.2016, the petitioner already paid Rs.31,300/-. Since the petitioner has already paid the amount, the same cannot be put against the petitioner. On perusing the calculation sheet, it is seen that the respondents have imposed penal interest from the year 2013-2016 and the principle is amount Rs.31,300/-, while the penal interest for the said period is Rs.86,783/-. According to the petitioner, the materials were handed over in the year 2006 itself and the petitioner was relieved from the place on 03.01.2007. In such circumstances, the penal interest from 2007 to 2016 is illegal. As far as the period from 2003 to 2007, the same alone is liable to be collected.

9.Therefore, the following orders are being passed:

a. the impugned penal interest is quashed for the period from 31.01.2007 to until 28.03.2016.

b.The petitioner is liable to pay the balance amount of penal interest from 08.01.2003 to 03.01.2007. The respondents are directed to calculate the penal interest for the above said period alone.

c.The respondents are directed to include the petitioner's name in the panel, dated 15.02.2020 and fix the petitioner's name in the appropriate place in the seniority list.

d.The impugned order of punishment is modified as stoppage of increment for a period of two years without cumulative effect.

e.The respondents are directed to grant promotion after modifying the seniority list.

10.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

(*) Amended as per the order of this court dated 07.07.2022 made in WP (MD).No. 8676 of 2016

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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



(*) to be substituted the order already despatched on 26.05.2022

TO:

1. The Superintending Engineer,
TANGEDCO,
Tirunelveli Electricity Distribution Circle,
Tirunelveli- 11.

2. The Superintending Engineer,
TANGEDCO,
Generation Circle, Tirunelveli-11.

+1 CC to M/s.B.BRIJESH KISHORE, Advocate (SR-13252[F] dated
21/03/2022)

W.P.(MD)No.8676 of 2016
18.03.2022

RD(23.05.2022) 4P 4C

KB(14.07.2022) 4P 4C