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W.P.No.728 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.728 of 2021

T.Enayathullah

... Petitioner

Vs.

- 1.NLC India Limited,
Rep by its Managing Director,
No.135, EVR Periyar High Road,
Kilpauk, Chennai 600 010.
- 2.The Appellate Authority,
NLC India Limited,
Rep by its DGM/can.vul/mine - II,
Office of the Chief General Manager,
Mine - II,
Neyveli, Cuddalore District 607 802.
- 3.The Disciplinary Authority,
NLC India Limited,
Office of the Chief General Manager,
Mine - II, Neyveli,
Cuddalore District 607 802.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent vide his proceedings in Memo No.M-II/HR/DACELL/551/2401/2018 dated 13.02.2019 and to quash the same



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as illegal and direct the first respondent to promote the petitioner notionally to the next grade of operator namely H4 Operator as on 10.08.2018 being the date on which his working mates / batch mates were promoted to H4 Operator and to sanction pension as if retired in the post of H4 Operator considering the petitioner's representations dated 18.03.2019 and 05.08.2019.

For Petitioner : Ms.Karthika Ashok
For Respondents : Mr.N.Nithianandam

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent vide his proceedings in Memo No.M-II/HR/DACELL/551/2401/2018 dated 13.02.2019 and to quash the same as illegal and direct the first respondent to promote the petitioner notionally to the next grade of operator namely H4 Operator as on 10.08.2018 being the date on which his batch mates were promoted to H4 Operator and to sanction pension as if retired in the post of H4 Operator considering the petitioner's representations dated 18.03.2019 and 05.08.2019.



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2. Heard Ms.Karthika Ashok, learned counsel for the petitioner and Mr.N.Nithianandam , learned counsel for the respondents.

3. The learned counsel for the petitioner submitted that imposing punishment of reduction of one stage of increment is disproportionate to the charges and the petitioner did not suppress any material facts to the appointing authority. It is further submitted that since the punishment imposed affects his next promotion to the level of H4 Operator, the impugned order should be set aside and the respondents should be directed to promote the petitioner notionally to the next grade of H4 Operator H4 as on 10.08.2018 on par with his batch mates who are promoted to the said post and sanction him the pension corresponding to the post of H4 Operator by considering the representations of the petitioner dated 18.03.2019 and 05.08.2019.

4. The learned counsel for the respondents submitted that after



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having acquiesced to the punishment imposed upon him, the petitioner had chosen to file this Writ Petition subsequent to his retirement. The charge against the petitioner was that there was a criminal case registered against him in FIR No.218/2018 under Sections 294(P), 506(2) in Chengam Police Station. Even though the petitioner obtained anticipatory bail and got an order of bail subsequently surrendered before the Judicial Magistrate, Tiruvannamalai and later released on conditional bail order on 24.05.2018, the petitioner did not inform the above fact to the Management and that has been considered as serious misconduct and disciplinary action has been initiated against him. In fact as per the conditional order, the petitioner was observing condition before the Chengam Police Station at 10.30 a.m. The petitioner has stated in his appeal petition itself that the petitioner due to his ignorance omitted to bring it to the notice of the Management about the pending FIR and admitted the same.

5. Since the Appellate Authority had confirmed the order passed by the appointing authority after giving a fair opportunity of hearing to the



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petitioner, this Court cannot re-visit the order passed by the concerned authorities and recall the same. Hence, I feel no merits in this Writ Petition and is liable to be dismissed.

6. In the result, this Writ Petition is dismissed. No costs.

01.12.2023

Index : Yes

Internet : Yes/No

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To

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R.N.MANJULA, J.

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