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W.P.No.5447 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.5447 of 2023

and

W.M.P.Nos.5478 & 5480 of 2023

N.Sheela Devi

...Petitioner

Vs

1.The Principal Secretary Chairman
and Managing Director,
Tamil Nadu Industrial Development
Corporation Limited,
No.19A, Rukmani Lakshmipathi Road,
Egmore, Chennai - 600 008.

2.The Appellate Authority,
Board of Tamil Nadu Industrial
Development Corporation Limited,
No.19A, Rukmani Lakshmipathi Road,
Egmore, Chennai - 600 008.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the respondents vide No.2(238)BII/2021 and quash the impugned order passed by the 1st respondent dated



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25.11.2021 and the consequent order of the 2nd respondent in No.2(238)BII/2022 dated 05.12.2022 confirming the impugned order of the 1st respondent dated 25.11.2021 as highly illegal and further direct the 1st respondent to reinstate the petitioner back in service with all the eligible monetary benefits periodically.

For Petitioner : Mrs.Karthikaa Ashok

For Respondents : Mr.R.U.Dinesh Kumar,
Additional Government Pleader

ORDER

With the consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. Through a charge memo dated 13.06.2019, the petitioner is alleged to have committed certain misconducts. Not being satisfied with the explanation rendered by the petitioner, an inquiry was conducted, in which, 6 out of the 8 charges were held as proved. The petitioner had submitted her further representation on 04.10.2021. In consequence to such a further representation being submitted, the Disciplinary Authority, through the impugned proceedings dated 25.11.2021, had imposed the punishment of dismissal from service. The appeal preferred by the



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petitioner before the second respondent herein was also rejected on 05.12.2022. The order of punishment, as well as the order-in-appeal, are under challenge in the present Writ Petition.

3. Though the petitioner herein had raised several grounds challenging the order of punishment, one of the main grounds stressed upon by the petitioner is that the order of the Disciplinary Authority dated 25.11.2021 is a non-speaking order.

4. In the light of the statement made, the order of the Disciplinary Authority was perused. Though the order runs to about 16 pages, the consideration is found in the penultimate portion of the order, which reads as follows:-

"Charges are in the nature of insubordination and not taking action even in cases directed by higher officials in the important cases related to court matters. After applying my mind, I have reached the conclusion that it will not be in the interest of the organization to continue the services of the delinquent official. Thus, it is decided to



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*dismiss the delinquent officer Tmt.N.Sheela Devi,
from the services of TIDCO with immediate effect."*

5. The aforesaid extract would reveal that apart from stating that the charges are in the nature of insubordination and not taking action as per the directions of the higher officials, there is absolutely no consideration of any of the findings in the inquiry report nor on the further representation made by the petitioner.

6. A copy of the petitioner's further representation dated 04.10.2021 has also been produced before this Court, in which, she had explicitly raised grounds stating that there was no adequate opportunity extended to her to defend the charges and that there is a delay of 10 months, apart from several other grounds challenging the inquiry report. All these grounds have not been addressed by the Disciplinary Authority while imposing the punishment. Such a procedure is totally opposed to the well settled principles in departmental proceedings under service jurisprudence.



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7. Whenever an Inquiry Officer submits a report holding the charges as proved and the delinquent officer also submits her further representation to the proven charges, there is a duty cast on the Disciplinary Authority to consider the materials on record, based on which the inquiry report was made, as well as all the grounds raised by the delinquent officer in her further representation. In the instant case, the Disciplinary Authority had simply extracted the charges, reply submitted by the delinquent officer, the deposition of the delinquent officer, the findings of the Inquiry Officer and thereafter had simply stated that he had applied his mind for reaching the conclusion. Apparently, the order itself is a non-speaking order and is also one of a non-application of mind. On this ground, the punishment, as well as the consequential order of the Appellate Authority, cannot be sustained.

8. In the light of the above observations and findings, the impugned orders dated 25.11.2021 and 05.12.2022 are quashed. Consequently, the matter is remanded back to the first respondent herein, who shall consider the entire findings of the Inquiry Officer, as well as the further representation made by the petitioner on 04.10.2021 and pass



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a speaking order, within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition stands disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

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Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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M.S.RAMESH,J.

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