



W.P.No.32014 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

|                        |                   |
|------------------------|-------------------|
| <b>RESERVED ON :</b>   | <b>10.04.2023</b> |
| <b>PRONOUNCED ON :</b> | <b>26.04.2023</b> |

**CORAM :**

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**

**W.P.No.32014 of 2015**

K.Shanmugam

... Petitioner

**Vs.**

1. The Chairman,  
Tamil Nadu Electricity Generation & Distribution  
Corporation (TANGEDCO) Ltd.,  
No.144, Anna Salai,  
Chennai 600 002

2. The Chief Engineer / Distribution  
Office of the Chief Engineer Distribution,  
TANGEDCO Ltd.,  
Erode Region, EVN Road,  
Erode District – 9

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the Impugned Charge Memo issued by the 2nd respondent in Memo No.11401/560/A4/2008-4 dated 27.05.2008 and impugned final punishment order passed by the 2nd respondent in



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proceedings No.11401/560/A4/2008-13 dated 7.05.2009 and impugned appeal rejection order issued by the 1st respondent in proceeding No.139 dated 17.06.2015 and quash the same and consequently direct the respondents to pay the withhold annual increment for a period of two years and to grant other consequential service and monetary benefits.

For Petitioner : Mr.R.Subburaj

For Respondents : Mr.K.Rajkumar,  
Standing Counsel

### **ORDER**

This Writ Petition is filed seeking to quash the order of rejection of the Appeal by the 1<sup>st</sup> respondent dated 17.06.2015, whereby, the final punishment order passed by the 2nd respondent dated 7.05.2009, pertaining to the Impugned Charge Memo dated 27.05.2008, has been confirmed. The petitioner further sought for a direction to the respondents to pay the withheld annual increment for a period of two years.

2. It is averred in the writ petition that while the petitioner was working as a Junior Engineer under the respondent Corporation, with



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regard to a complaint made by one Mr.Mohanasundaram for rejecting the application for obtaining new E.B. service connection, he was called for enquiry. A charge memo has been issued in that regard on 18.11.2006. After enquiry, report was submitted holding that the alleged charges of demand of bribe and delay in consideration of application, were not proved.

3. According to the petitioner, initially an application for new E.B.connection was filed by the said Mohanasundaram on 18.11.2006 and the same came to be rejected by the petitioner on 11.01.2007, since the said Mohanasundaram did not pay the estimated amount as per TNEB Revenue Manual 1996 clause 2.01(5). The Manuals states that if the estimate amount is not paid within time, the Section Officer has the power to reject the application. Subsequently, on 26.05.2007 when the said Mohanasundaram had submitted a fresh application with relevant documents along with payment of the estimated amount, his application was considered.



4. Mr.R.Subburaj, learned counsel for the petitioner would submit that since demand of money by the petitioner is not proved in the enquiry report, Vigilance proceedings were dropped. However, the second respondent had issued a charge memo, dated 27.05.2008, levelling three charges against the petitioner and called for explanation. The details of three charges are as under:-

*“1) The petitioner has demanded and accepted Rs.200/- as a bribe further the petitioner had demanded a sum of Rs.2,000/- from one Mr. Mohanasundaram.*

*2) Violation of Rules and procedures of TNEB with mala fide intention of delaying to give service connection.*

*3) J.E has not registered the service connection application dated 2.09.2006 on the date of receipt and registered only on 18.11.2006 with a delay of 2 ½ months. Subsequently such application cancelled by him on 11.1.2007. Again fresh application dated 4.5.2007 was received by him from the Above said Mohanasundaram and got it*



*sanctioned on 12.06.2007 without mentioning the cancellation of earlier estimate and cancellation of earlier application which is a violation of procedure.”*

5. The learned counsel for the petitioner would further contend that the second respondent has not given any supporting documents along with the charge memo. Therefore, on 16.06.2008, the petitioner made a request to the second respondent to furnish the supporting documents. However, the 2<sup>nd</sup> respondent, without giving any reply or explanation or without providing any reasonable opportunity to the petitioner to defend the charges, conducted enquiry. The Enquiry Officer had submitted his report and held that charge No.1 is not proved and other charges stand proved. The petitioner has submitted his further explanation on 03.09.2009. Without considering the same, on 07.05.2009, the second respondent had issued the order of punishment of “Postponement of his next annual increment for a period of two years with cumulative effect including the period spent on leave”.



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6. Aggrieved by the said punishment imposed, the petitioner preferred an statutory appeal to the first respondent on 02/07/2009. Since the said appeal has not been considered, the petitioner filed a writ petition in W.P.No.6406 of 2015 seeking a direction to the first respondent to dispose of his appeal.

7. Pursuant to the direction of this Court, by order dated 19.03.2015, to dispose the appeal within a time limit, the first respondent had rejected the appeal, without giving proper reasons and confirmed the punishment order dated 07.05.2009. Aggrieved against the said rejection of appeal, the petitioner has filed the present writ petition.

8. In order to support the contentions of the petitioner, the learned counsel submitted the following citations:-

(i) In the case of ***A.Venkata Rayadu*** vs.....reported in **2006 (8)**



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**supreme 670**, the Hon'ble Apex Court held that "it is well settled principle that a charge sheet should not be vague but should be specific", and "if any material is sought to be used in an enquiry, then copies of that material should be supplied to the party". In the present case, the respondents have not followed the above said to principle i.e. no alleged violated rule has been mentioned in the charge Nos. 2 and 3. and copies of the charge memo mentioned documents were not supplied even after receipt of the representation of the petitioner.

(ii) In the case of ***L. Pananiappan*** reported in **2000 (3) CTC 46**, this Court had followed the principle of "Rule of Reason", wherein the Court set aside the Appellate Authority's order on the ground that no reason has been stated in the order and held that the Appellate Authority is enjoyed with obligation to properly appreciate facts and give reason for rejecting appeal. According to the petitioner, it is the duty of the Appellate Authority to give reason for its rejection. But in the present case, no reason has been stated in the original punishment order and



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appellate order. Therefore, according to the learned counsel for the petitioner, both the orders are liable to be quashed.

(iii) In the case of **L. Manickavasagam** reported in **2016 (1) CLT 865** this Court has laid down the following principles that the appellate authority is required to see whether,-

- (a) the procedure laid down in the rules were complied with;
- (b) the enquiry officer was justified in finding that delinquent officer was found guilty; and
- (c) whether the penalty imposed by the Disciplinary Authority was excessive.

The learned counsel submitted that in the present case, the Appellate Authority had simply confirmed the original punishment without assigning any reasons.



9. It is the further contention of the learned counsel for the petitioner that the 2nd respondent has not given any reason in the impugned order of punishment and also did not refer or consider the witnesses statement or the petitioner's statement while passing the final order. Therefore, the impugned order has been passed mechanically and hence, the learned counsel for the petitioner prayed for allowing the writ petition.

10. On the other hand, Mr.K.Rajkumar, learned standing counsel appearing for the respondents would submit that, the petitioner, who had rejected the application of one Mohanasundram, has no powers to cancel the application without the direction of his higher officials, and that too without assigning any valid reasons. Without giving sufficient time to the applicant, the petitioner had canceled the application. According to the learned standing counsel for the respondent Corporation, the petitioner who had rejected the earlier application for want of documents, later he himself effected the service connection by



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getting fresh application.

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11. The learned standing counsel would state that it is evidently clear that the punishing authority, after careful consideration of the appeal, passed the final orders. The Appeal filed by the petitioner before the first respondent was considered as per the provisions as contemplated under Regulation 15 of Tamil Nadu Electricity Board Employees Discipline & Appeal Regulations.

12. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

13. Before proceeding to analyze the facts of the present case to find out whether the punishment awarded to the petitioner is just and reasonable, it is necessary to look into the ratio laid down by the Hon'ble Supreme Court, in the case of [B.C. Chaturvedi v. Union of India](#), (1995 (6) SCC 749), while dealing with issue relating to the



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power of the Court relating to judicial review of the order passed by the disciplinary authority, held as under :

“12. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”

14. A perusal of the records reveal that the charges levelled against the petitioner are not specific but are vague. The purpose of holding an enquiry against any person is not only with a view to establish the charges levelled against him or to impose a penalty, but is also conducted with the object of conduct such an enquiry recording the truth of matter. In the case on hand, the 1<sup>st</sup> charge was not proved and so, the finding is that it cast no doubt upon the integrity of the petitioner whatsoever.



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15. Secondly, the impugned punishment order dated 27.05.2009 is based on the findings of the enquiry officer. However, there is no findings as to whether it was based on any oral or documentary evidence adduced on both sides.

16. Thirdly, the order of the appellate authority would go to show that there was no discussion with regard to enquiry and the findings and no details with regard to grounds raised in the appeal. The appellate authority order does not stand to show as to whether the authority has revisited the entire enquiry findings, punishment imposed and the appeal grounds.

17. It is settled proposition of law that once the court sets aside the order of punishment on the ground that the enquiry was not properly conducted or it stood vitiated, it must remit the case to the disciplinary authority to conduct the enquiry from the point that it stood vitiated but



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such course depends upon the gravity of delinquency involved. But in the present case, the charges are not specific but vague and hence, the enquiry on such vague charges is unwarranted and uncalled for.

18. For the reasons aforesaid, this writ petition deserves to be allowed. Accordingly, this writ petition is allowed. The impugned orders dated 17.06.2015, 07.05.2009 and 27.05.2008 stand quashed. The respondents are directed to grant consequential service and monetary benefits and and the withheld annual increments, within a period of six months from the date of receipt of a copy of this order. No costs.

**26.04.2023**

Index : Yes/No  
Speaking Order : Yes/No  
Neutral Citation : Yes/No  
Internet : Yes/No

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**J.NISHA BANU, J.**

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Order in  
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