



W.P.No.36590 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	31.03.2023
PRONOUNCED ON	:	21.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.36590 of 2015
and M.P.Nos.1 & 2 of 2015

K.Dhanraj

... Petitioner

Vs.

- 1.The Chairman & Managing Director,
TANGEDCO Ltd, 144, Anna Salai,
Chennai-600 002
2. The Chief Engineer/Material Management,
TANGEDCO Ltd,
144, Anna Salai, Chennai-600 002
3. The Superintending Engineer,
TANGEDCO Ltd,
MGR Salai, 110 K.V.Valluvar Kottam Sub section,
Chennai-600 034.



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4.The Executive Engineer / Egmore,

TANGEDCO Ltd.,

47, Malayappan Road, Chennai-12

5.The Asst Executive Engineer/Mylapore,

TANGEDCO, Radhakrishnan Salai,

Chennai-600 004

6.The Asst Engineer/O&M,

Seven Wells Section, TANGEDCO Ltd.,

23, Malayappan Street, Chennai-600 001

7. The Asst Executive Engineer,

Sowcarpet Sub division, TANGEDCO Ltd,

23 Malayappan Street, Chennai-600 001

8.Jayakrishnan

9.Samruth Unnisa

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the records pertaining to Memorandum No.Tha.Po/Po.Me/So.Ko/A 71/2008 dated 13.11.2008 on the file of the 2nd respondent confirming the orders in Proceedings No.00549/592/Ni.Bi.4.Oo.1/Ko. O.Na/2006 dated 06.09.2007 on the file of the third respondent, quash the same.



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For Petitioners : Mr.R.Selvakumar
For RR1 to 7 : Mr.P.Subramanian
For R-8 : No Appearance

ORDER

This writ petition is filed by the petitioner seeking to quash the order dated 13.11.2008, whereby, the appellate authority, rejected the appeal and confirmed the proceedings dated 06.09.2007, wherein, the petitioner was imposed with the punishment of postponement of one increment for 3 years, with cumulative effect.

2. It is averred in the writ petition that the petitioner was working as Assessor, taking note of the consumer consumption details enabling the consumers to pay the charges to the Electricity Board. While so, for the irregularities alleged to have committed by him, show cause notice dated 07.10.2006, 02.02.2007 and 03.08.2007 have been served on the petitioner. Thereafter, following charges are framed against the petitioner:-



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(i) for the commercial service tariff V in use at the premises of R9, Pidariyar Temple Street, Seven Wells, Chennai, the petitioner collected the charges on domestic tariff IA;

(ii) while the commercial service tariff V was in use in the above said address, the petitioner levied and collected charges under domestic tariff IA, leading to the loss of Rs.77,503.00 to the Electricity Board and

(iii) the petitioner collected Rs.9000.00 for change of domestic tariff to commercial tariff from consumer viz., Samruthunissa and deposited Rs.1650.00 being the charge meant for tariff conversion and returned the balance Rs.7350.00 after four months time.

3. In respect of the above allegations, based on a complaint letter dated 26.04.2005 received from the Vigilance Cell, 3rd respondent-Superintending Engineer, TANGEDCO, initiated disciplinary proceedings against the petitioner and 3 others. After enquiry, based on the findings of the enquiry officer's report, the petitioner was found guilty of the 3 charges framed against him. Therefore, the Disciplinary authority imposed punishment of postponement of next increment for a period of three years with cumulative



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effect.

4. Aggrieved by the punishment imposed, the petitioner filed appeal before the Chief Engineer/Material Management, 2nd respondent, who confirmed the punishment imposed and rejected the appeal. Challenging the said orders, the petitioner is before this court.

5. Mr.R.Selvakumar, learned counsel for the delinquent-petitioner would submit that the impugned orders are non speaking order. Based on the consumer complaint, alleging wrong tariff service connections caused enormous loss to the department, entire action has been taken, which has no supporting evidence. The relevant documents based on which charges are framed, had not been furnished. Only partial enquiry has been conducted and the appeal was not considered by the appellate authority.

6. Per contra, the respondent-Electricity Board filed counter affidavit stating that after the rejection of appeal, the petitioner preferred Mercy Petition to the 1st respondent and the same is pending. The petitioner without prior sanction or intimation to the Board, collected Rs.9000/- from the



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consumer for changing the tariff. The petitioner issued a receipt for Rs.1650/- and therefore, the consumer preferred a vigilance complaint subsequent to which, the petitioner returned the excess money. Even though a separate enquiry has been recommended as against the petitioner and 3 others, since they were found innocent and all documents proved that the petitioner committed the offence, he was subjected to enquiry. Based on the consumer's statements and after verifying all valid and proper records and after conduct of satisfactory enquiry proceedings, he was imposed with the minor punishment of postponement of increment for three years with cumulative effect. Further, after complying with principles of natural justice, disciplinary proceedings were concluded and punishment imposed. Therefore, in the interest of Board, the punishment order was passed.

7. Heard both sides and perused the records carefully.

8. A perusal of records would go to show that in the enquiry proceedings, allegations were found to be substantiated against the petitioner mainly on the allegation regarding the petitioner received an amount of



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Rs.9000/- from the consumer for the change of tariff and subsequently returned the balance amount of Rs.7350/- after keeping the amount with him for some days.

9. Secondly, the petitioner has not given explanation to the show cause notice dated 05.04.2006 and hence, the petitioner was asked to attend the enquiry. However, the petitioner did not attend the enquiry on 13.03.2007. Thereafter, he attended enquiry on 27.03.2007 and 04.04.2007. The petitioner is said to have given his reply on 03.05.2007 denying the charges framed against him, which does not form part of the typed set of papers in this writ petition.

10. The Enquiry Officer found that out of Rs.9000/- obtained from the consumer viz., Samruthuneesa, only Rs.1650/- has been remitted to the accounts of the TANGEDCO and only after complaint to the vigilance department, the petitioner has returned the balance amount. The said fact was corroborated by the said Samruthuneesa before the enquiry proceedings and also given in writing before the vigilance officer and the enquiry officer.



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Therefore, for the charges proved against the delinquent, the enquiry officer came to the conclusion that the petitioner is responsible for the Revenue loss caused to the TANGEDCO and that the explanation submitted by the petitioner was not satisfactory. It is relevant to note herein that neither the explanation dated 03.05.2007 submitted before the enquiry officer nor the explanation dated 16.08.2007 submitted before the disciplinary authority are enclosed in the typed set of papers for consideration of this court.

11. The object of the disciplinary proceedings, is to punish the person, whose guilt has been proved and it is established that the person has committed the offence. In the matter of assessment which requires to be made in accordance with the tariff of the value of electricity, the petitioner without intimation to the Board has changed the tariff, thereby, with a dishonest intention changed the consumption tariff assessment. Further, the oral and written evidence of the consumer before the enquiry officer and the vigilance officer would clearly make out the case that the petitioner demanded excess amount than the tariff for changing tariff plan and the petitioner also accepted before the enquiry officer that he returned the excess amount only after the



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complaint before the Vigilance Officer. This court, without the copies of explanation/reply of the petitioner to the department, cannot presume innocence in favour of the petitioner especially when the charges are proved. For the offence of such nature which comes to the knowledge of vigilance department, necessary action has been taken and the enquiry has been conducted in compliance of the procedures set out in the statute. As such, the punishment imposed cannot be said to be disproportionate one for the proved charges. Therefore, the appellate authority order dated 13.1.2008, confirming the punishment order dated 06.09.2007, cannot be found fault with.

12. In the result, this writ petition is devoid of merits and accordingly, dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.12.2023

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

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J.NISHA BANU, J.,

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Pre-Delivery Order made in

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Dated:
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