



W.P.No.20540 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20540 of 2022
and WMP No.19655 of 2022

T.Murugesan

...Petitioner

-Vs-

1.The Director (HR) Additional Charge,
NLC India Limited,
Neyveli Township,
Neyveli,
Cuddalore – 607 801.

2. The General Manager,
Township Administration,
NLC India Limited,
Neyveli Township,
Neyveli,
Cuddalore – 607 801.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the entire records connected with the impugned orders of the first respondent made in Procs No.NLCIL/TA/HR/DA/A-VIII/449-2/2022, dated 11.07.2022 and his consequential proceedings in



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Procs.No.NLCIL/TA/HR/DA/A-VIII/449-3/2022 dated 03.08.2022, quash the same.

(Prayer amended vide order dated 22.06.2023 made in WMP No.21331 of 2022 in W.P.No.20540 of 2022)

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.N.Nithianandam

ORDER

Heard Mr.Sathia Chandran, learned counsel for the petitioner and Mr.N.Nithianandam, learned Standing Counsel for the respondents.

2. Five charges were framed against the petitioner on 10.06.2021 and the petitioner was subjected to disciplinary proceedings under Rule 34 of NLCIL Employees' (Conduct, Discipline and Appeal) Rules governing the respondents Corporation. Based on the Enquiry Officers' Report dated 02.03.2022, the disciplinary authority had awarded punishment of Censure through order dated 22.06.2022. In the said order, liberty was granted to the petitioner to file an appeal against the order of the Executive Director/H.R within 30 days of the said order. However, even before the expiry of 30 days, the first respondent herein, has taken



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suo-motu review proceedings of the order passed by the disciplinary authority and had enhanced the punishment of reduction of pay by one stage for a period of seven months without cumulative effect through an order dated 11.07.2022, which has been termed to be a show cause notice. Challenging these orders, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that when an Enquiry Officer has found Charge Nos.2 to 5 as not proved and since the Charge No.1 only relates to non-maintenance of records, the major penalty ought not to have been imposed by the first respondent herein. Even otherwise, learned counsel would submit that the impugned order of the first respondent herein cannot be legally sustained since the same has been passed within the period granted for filing an appeal and without even prior opportunity to the petitioner, the first respondent has deviated from the findings of the Enquiry Officer and had enhanced the punishment.

4. Per contra, learned Standing Counsel for the respondents submits that under Rule 44 of NLCIL Employees' (Conduct, Discipline and Appeal) Rules, the reviewing authority has powers to suo-motu review the order passed by the



original authority and the order of the first respondent dated 11.07.2022 is only a show cause notice as reflected in the order itself. As such, there is no infirmity in the order passed.

5. I have give careful consideration of the submissions made by both sides.

6. The order of the first respondent herein dated 11.07.2022 is a mulcted with several illegalities. Firstly, though the order seems to term itself as a show cause notice, a reading of the said order does not indicate that prior opportunity was given to the petitioner before imposition of major punishment. Curiously, the first respondent herein had imposed the punishment and thereafter called for petitioner's explanation on the punishment imposed. This can never be termed as show cause notice at all since the decision had already been taken and then an opportunity was given on the enhanced punishment imposed.

7. Secondly, the disciplinary authority had imposed the punishment of Censure through an order dated 22.06.2022, in which, 30 days time was granted to challenge the order. However, even before expiry of 30 days, the first



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respondent had chosen to have suo-motu reviewed the proceedings on 11.07.2022 itself.

8. These are very serious illegalities committed by the first respondent herein and therefore, the very initiation of review proceedings invoking Rule 44 of NLCIL Employees' (Conduct, Discipline and Appeal) Rules cannot be sustained. If that be so, the petitioner would still be entitled for filing an appeal against the original order passed by the disciplinary authority dated 22.06.2022.

9. In view of the illegalities committed by the first respondent herein, any service benefits that may have been deprived to the petitioner after orders passed on 11.07.2022, requires to be necessarily extended to the petitioner. Though the petitioner herein has also raised several grounds challenging the original order of punishment dated 22.06.2022, this Court is of the view that such grounds may not be addressed in view of the alternative appellate remedy is available under Service Rules.

10. In the light of the above findings and observations, the impugned order



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of the first respondent dated 11.07.2022 is quashed. Consequently, the petitioner herein is given liberty to file an appeal against the order of the second respondent herein dated 22.06.2022 within a period of 30 days from the date of receipt of a copy of this order. In case, the reviewing authority is of the view that the order of the disciplinary authority dated 22.06.2022 is to be reviewed, the same can be invoked only on expiry of 30 days period granted to the petitioner for filing an appeal and within 90 days, as prescribed under Rule 44 of NLCIL Employees' (Conduct, Discipline and Appeal) Rules.

11. In view of the quashing of the order dated 11.07.2022, the consequential order dated 03.08.2022 is also quashed and the writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Internet:Yes/No
sr



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M.S.RAMESH,J.,

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