



WEB COPY



WP.Nos.31968 & 31969/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.Nos.31968 & 31969/2017 & WMP.Nos.35127 & 25128/2017

N.Rajan

... Petitioner in
both Writ Petitions

Versus

1.The Superintending Engineer
TANGEDCO, Tiruppur Electricity
Distribution Circle, Tiruppur
Tiruppur District.

2.The Executive Engineer
Operation & Maintenance
TANGEDCO, Tiruppur.

... Respondents in
both Writ Petitions

Prayer in WP.No.31968/2017 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Ku.A.No.26541/Ne.Pe/U2/A No.8991/2017 dated 27.11.2017 and quash the same as incompetent, illegal and ultravires.



WP.Nos.31968 & 31969/2017

Prayer in WP.No.31969/2017 :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the order passed by the 2nd respondent in his proceedings in Ku.A.No.Sa.Pa/O&M/Tiruppur/Ne.Pe/U1/Ko.O.na/A.No.098/2017 dated 24.11.2017 and quash the same as incompetent, illegal and ultravires.

For Petitioner in both
Writ Petitions : Mr.Ma.P.Thangavel

For Respondents in both
Writ Petitions : Mr.K.Rajkumar
Standing counsel

COMMON ORDER

- (1) Both the writ petitions have been filed by the same petitioner and raising the same issue and therefore, a common order is passed.
- (2) In WP.No.31968/2017, the petitioner seeks a certiorari relating to the records of an order passed by the 1st respondent, Superintendent Engineer, TANGEDCO, Tiruppur Electricity Distribution Circle dated 27.11.2017 and to quash the same.
- (3) By the said Impugned Order dated 27.11.2017, the 1st respondent had stated that information had been received that the petitioner was in



WP.Nos.31968 & 31969/2017

WEB COPY

the habit of demanding bribe and that, consequent to this information, the 1st respondent proposed to conduct departmental proceedings and therefore, till that time, the petitioner should be placed under suspension.

- (4) In WP.No.31969/2017, the petitioner again seeks a certiorari seeking interference with an order dated 24.11.2017 which can be termed as a show cause notice wherein, it had been stated that information had been received by way of a Whatsapp conversation / message by the 1st respondent and in the said message/conversation, it had been stated that the petitioner was in the habit of demanding bribe amount. Both the writ petitions, therefore question the propriety of the 1st respondent to initiate proceedings against the petitioner who was working as a Special Grade Foreman under the respondents.
- (5) It is trite in law to point out that any Whatsapp message could only be termed as secondary evidence and even otherwise, any information shared therein, could be so freely posted, even out of imagination and without any basis. No credibility can be attached to such messages. If at all the 1st respondent had thought it requisite to enquire into such



WP.Nos.31968 & 31969/2017

WEB COPY

Whatsapp message, then the proper procedure would be to conduct a discreet enquiry by finding out the source of the said message, examine those individuals, gather facts and thereafter, come to a *prima facie* conclusion that the message was true and that it should be acted upon and only thereafter, should have either suspended the petitioner or issued a show cause notice. They cannot act merely on whims and fancies of a third person who had thought it necessary to send messages across Whatsapp. The said message can never be the basis for proceeding against a Government employee whose valuable right had been snatched by the respondents by these two orders which are impugned in both the writ petitions.

- (6) Both orders, having no legal basis, are straightaway set aside by this Court. The issue relates to the year 2017 and I also hold that in the year 2023, it would be an exercise in futility if the respondents were to move around to gather information about the Whatsapp message circulated six years back. It would only be advisable for the respondents in the writ petitions to drop all further proceedings.



WEB COPY



WP.Nos.31968 & 31969/2017

C.V.KARTHIKEYAN, J.,

AP

WP.Nos.31968 & 31969/2017

21.09.2023