



W.P.(MD).Nos.12564 and 12565 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 07.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.12564 and 12565 of 2018
and
W.M.P.(MD).Nos.11459 and 11460 of 2018**

W.P.(MD).No.12564 of 2018:

V.Arjunan

... Petitioner

Vs.

- 1.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Electricity Distribution Circle,
Maharaja Nagar,
Tirunelveli – 11.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Generation Circle,
Maharaja Nagar,
Tirunelveli – 11.
- 3.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Urban Division,
V.M.Chathiram,
Tirunelveli – 11.



W.P.(MD).Nos.12564 and 12565 of 2018

4.T.Isan,
The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Urban Division,
V.M.Chathiram,
Tirunelveli – 11.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Charge Memo in Ku.No.Se.Po./ViNi/NaPa/Thili/U.Ni.A/Ni.Me/Kho.O.Na/A.No. 2340/17 dated 03.11.2017 and the Consequential Impugned Order in Ku.No.Se.Po./ViNi/NaPa/Thili/U.Ni.A/Ni.Me/Kho.O.Na/A.No.1787/17 dated 21.05.2018 on the file of the Respondent No.3 quash the same as illegal and consequently for a direction, directing the Respondent No.2 to conduct denovo enquiry providing adequate opportunity to the petitioner within the time stipulated by this Court.

W.P.(MD).No.12565 of 2018:

V.Arjunan

... Petitioner

Vs.

1.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Electricity Distribution Circle,
Maharaja Nagar,
Tirunelveli – 11.



W.P.(MD).Nos.12564 and 12565 of 2018

2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Generation Circle,
Maharaja Nagar,
Tirunelveli – 11.

3.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Urban Division,
V.M.Chathiram,
Tirunelveli – 11.

4.T.Isan,
The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Urban Division,
V.M.Chathiram,
Tirunelveli – 11.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Charge Memo in Ku.No.Se.Po./Vi/NaPa/Thili/U.Ni.A/Ni.Me/Kho.D.P/A.No.387/18 dated 19.02.2018 and the Consequential Impugned Order in Ku.No.Se.Po./Vi/NaPa/Thili/U.Ni.A/Ni.Me/Kho.O.Na/A.No.1789/18 dated 21.05.2018 on the file of the Respondent No.3 quash the same as illegal and consequently for a direction, directing the Respondent No.2 to conduct denovo enquiry providing adequate opportunity to the petitioner within the time stipulated by this Court.



W.P.(MD).Nos.12564 and 12565 of 2018

(In Both Writ Petitions):

For Petitioner : Mr.G.Karthik,
For M/s.Lajapathi Roy and Associates.

For R-1 to R-3 : Mr.S.Arivalagan,
Standing Counsel.

COMMON ORDER

The Writ Petition in W.P.(MD)No.12564 of 2018 is filed challenging the impugned charge memo dated 03.11.2017 and the consequential impugned order dated 21.05.2018 with a consequential direction to conduct denova enquiry.

2. The petitioner was appointed as Assessor and subsequently converted as Junior Assistant and later promoted as Assistant and he was served for the past 18 years. The petitioner has applied for request transfer to the Chief Engineer Personnel, Chennai on 13.07.2017. The respondents state that any person can seek transfer if the employee completed atleast one year of service in the incumbent place. In the present case, the petitioner without completing one year service has submitted an application for request transfer. The



W.P.(MD).Nos.12564 and 12565 of 2018

respondents after perusing the service records had cancelled the transfer on 01.09.2017. However, the subsequent authority without knowing the cancellation has granted transfer order on 04.10.2017 and relieving order on 11.10.2017 and the petitioner has joined the transferred place of the second respondent that is the Generation Circle. The respondents have initiated disciplinary proceedings for concealing the fact that the petitioner has not completed one year of service in the incumbent place.

3. This Court is of the considered opinion that when respondents very well aware that the petitioner has not completed one year of service in the present case, has rightly cancelled the petitioner's application on 01.09.2017 itself. There was a communication gap within respondents and the same cannot be attributed on the petitioner. Moreover, this Court is of the considered opinion that the petitioner has only 24 days more days to complete one year. Therefore, the charge cannot be considered as a serious offence warranting disciplinary proceeding. Therefore, this Court is inclined to quash the impugned orders. The impugned charge memo and the consequential punishment of stoppage of increment for one year with cumulative effect are quashed in W.P.(MD)No. 12564 of 2018.



W.P.(MD).Nos.12564 and 12565 of 2018

WEB COPY

4. The petitioner had filed another Writ Petition in W.P.(MD).No.12565 of 2018. In this Writ Petition, the petitioner has challenged the charge memo dated 19.02.2018 and the consequential punishment order dated 21.05.2018. The charge against the petitioner is that the petitioner has attended a meeting along with the Union members. However, while he was proceeding to attend the same, he has gheraoed the higher authorities along with the union members and some other persons who are outsiders. Therefore, the respondents had issued the charge memo.

5. The contention of the respondents is that the petitioner being a Union leader is frequently having tussle with the higher authorities. In the present case, the petitioner has gheraoed the higher authorities and has also made slogans against the higher authorities. Therefore, the respondents had initiated action against the petitioner. But the petitioner has not turned up to attend the enquiry inspite of several opportunities granted to the petitioner. The respondents have left with no other option has passed an exparte order. The petitioner has deliberately not participated in the enquiry proceedings. Therefore, the petitioner has no locus standi to challenge the exparte order.



W.P.(MD).Nos.12564 and 12565 of 2018

However, the petitioner had raised legal ground that the petitioner was subsequently transferred from the first respondent Distribution Circle to the second respondent Generation Circle. Therefore, the appropriate authority is the Chief Engineer, Tirunelveli or Chief Engineer (Personnel).

6. Therefore, this Court after hearing the submissions is of the considered opinion that at this stage the matter cannot remitted back. Therefore, this Court is inclined to modify the punishment as stoppage of increment for one year with cumulative effect in W.P.(MD)No.12565 of 2018.

7. In view of the above, the Writ Petitions are disposed on above terms. No costs. Consequently, connected miscellaneous petitions are closed.

07.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).Nos.12564 and 12565 of 2018

To

WEB COPY

- 1.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Electricity Distribution Circle,
Maharaja Nagar,
Tirunelveli – 11.
- 2.The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Generation Circle,
Maharaja Nagar,
Tirunelveli – 11.
- 3.The Executive Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Tirunelveli Urban Division,
V.M.Chathiram,
Tirunelveli – 11.



WEB COPY



W.P.(MD).Nos.12564 and 12565 of 2018

S.SRIMATHY, J.

Nsr

W.P.(MD).Nos.12564 and 12565 of 2018

07.06.2023