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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.4923 & 4924 of 2016

V.Murugan

... Petitioner in both
Writ Petitions

Vs.

1. The Chairman,
TANGEDCO,
Anna Salai, Chennai.
2. The Superintending Engineer,
TANGEDCO,
Maharaja Nagar,
Tirunelveli District.
3. The Executive Engineer,
TANGEDCO,
Valliyoor,
Radhapuram Taluk,
Tirunelveli District.
4. The Assistant Executive Engineer,
TANGEDCO,
Eruvadi, Nanaguner Taluk,
Tirunelveli District.



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5. The Assistant Executive Engineer/Enquiry Officer,
TANGEDCO,
Valliyoar,
Tirunelveli District.

... Respondents in both
Writ Petitions

PRAYER in W.P(MD)No.4923 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a *writ of Certiorarified Mandamus*, calling for the records relating to the order passed by 3rd respondent in his order in KU.No./ 01688/301/NI.Aa/Ni.bi/Vu.1/2012, dated 19.04.2012 regarding the charge memo No.56/2011, dated 29.07.2011 which was confirmed by 2nd respondent in his order Ku.Aaa.No. 014038/359/Ni.Bi4/Vu1/Ko.Olungu Nadavadikkai/ 2012-2013, dated 29.01.2013 and quash the same as illegal arbitrary and the unconstitutional and consequently directing the respondents to restore the petitioner's seniority with all consequential benefit including promotion.

PRAYER in W.P(MD)No.4924 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a *writ of Certiorarified Mandamus*, calling for the records relating to the order passed by 3rd respondent in his order in KU.No./01746/319/NI.Aa/Ni.bi/Vu.1/2012, dated 19.04.2012 regarding the charge memo No.57/2011, dated 29.07.2011 which was confirmed by 2nd respondent in his order Ku.Aaa.No.014038/359/Ni.Bi4/Vu1/Ko.Olungu Nadavadikkai/ 2012-2013, dated 29.01.2013 and quash the same as illegal arbitrary and the unconstitutional and consequently directing the respondents to



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restore the petitioner's seniority with all consequential benefit including promotion.

In both writ petitions:

For Petitioner : M/s.S.R.Anbarasu
For Respondents : Mr.S.Arivalagan

COMMON ORDER

These writ petitions have been filed to quash the charge memo with a consequential direction to the respondents to restore the petitioner's seniority with all consequential benefits including promotion.

2. The petitioner due to his illness was not able to attend duty for a period of 29 days from 19.11.2010 to 13.12.2010. After recovery, he has produced a medical certificate along with medical fitness certificate and thereafter, he was permitted to join duty on 14.12.2010. Unfortunately, he was admitted in Hospital for treatment and he could not attend duty for a period from 20.12.2010 to 13.01.2011. Thereafter, he joined duty based on the medical certificate and fitness certificates. For the two spells of unauthorized absence, the respondents have



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issued two separate charge memo Nos.46, 47 of 2011. The respondents have conducted an enquiry, after giving opportunity to the petitioner. The respondents have imposed punishment of stoppage of increment for two years with cumulative effect for both the charge memos. Aggrieved over the same, the petitioner is before this Court.

3. The respondents have filed counter stating that the petitioner has repeatedly absented himself to duty for a period from 21.03.2004 to 16.02.2004 for 25 days and from 30.03.2005 to 11.05.2005 for a period of 43 days and from 02.07.2005 to 17.07.2005 for a period of 16 days and again from 07.12.2005 to 20.08.2006 [257 days]. The respondents have imposed lesser punishment of stoppage of increment for two years with cumulative effect for both charge memos. Therefore, the respondents prayed to dismiss the writ petition.

4. The contention of the petitioner that he is a Union leader and has raised voice for employees and hence the respondents are prejudiced against the petitioner. Moreover, he has joined duty based on the medical certificate and fitness certificate and the respondents have allowed the petitioner to join duty



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based on the said certificates. Again, the respondents have imposed punishment of two years with cumulative effect. Even though it may be considered as lesser punishment, the learned counsel appearing for the petitioner submitted that the said punishment is affecting the petitioner's promotion and hence prayed to modify the punishment.

5. Since the punishment is affecting the petitioner's promotion therefore, this Court is of the considered opinion that the punishment ought to be modified and accordingly, the punishment is modified as stoppage of increment for 2 years without cumulative effect for both the charges.

6. With the above modifications, these Writ Petitions are allowed.

No Costs.

Index : Yes / No
Internet : Yes
ksa

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S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos.4923 & 4924 of 2016**

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