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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

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THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.590 of 2020
and WMP.Nos.691 of 2020 and 6616 of 2021

S.Pasupathi

... Petitioner

Vs

1.Neyveli Lignite Corporation Limited,
Rep. by its Director (HR), Corporate Office,
Block – I, Neyveli Township – 607 801.

2.The Chief General Manager (HR),
Neyveli Lignite Corporation Limited,
Corporate Office,
Block – I, Neyveli Township – 607 801.

3.The Chief General Manager/Mine I,
Neyveli Lignite Corporation Limited,
Corporate Office,
Block – I, Neyveli Township – 607 801.

4.The Additional Deputy General Manager,
Shift Office, Mine I (Disciplinary Authority),
Neyveli Lignite Corporation Limited,
Corporate Office,
Block – I, Neyveli Township – 607 801.

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned show cause notice/order in PSC.No.M1/HR/DAC/278-48/2015, dated 19.12.2019 passed by the 4th respondent, issued to the petitioner on 24.12.2019 and quash the same.

For Petitioner : Mr.W.M.Abdul Majeed

For Respondents : Mr.F.B.Benjamin George

ORDER

This writ petition has been filed challenging the show cause notice issued by the 4th respondent to show cause as to why the punishment of demotion to lower category as industrial worker Gr.I. In (W2) Grade “placing him at mid point of that scale of pay Rs.19,000-3%-77000 (W2) i.e., at 21st stage with basic pay of R.47,780/- to demotion to the lower category as industrial worker Grade II in (W1) grade by placing him at mid point of that scale of pay Rs.18,000/- 3%-73000 (W1) with basic pay of Rs.45,210.

2. The respondents filed a counter affidavit contending that the petitioner has produced the certificate issued by fake institution and secured employment in the respondent organization and therefore, the disciplinary proceedings were initiated and final show cause notice was issued. As the



impugned order is only the show cause notice, the writ petition cannot be entertained. It is further stated that as soon as the petitioner submits his explanation, the respondents would take a final decision in the matter.

3. However, it is brought to the notice of this Court by the learned counsel for the petitioner that under similar circumstances, wherein, the respondent organization on the very same charge framed against the other employees placed as that of the petitioner has passed final orders imposing appropriate punishment and the said final orders are challenged in Writ Petition No.940 of 2022 etc., batch and the learned Single Judge of this Court, by order dated 11.03.2024 allowed the said batch of writ petitions, setting aside the impugned orders. It is also brought to the notice of this Court that the petitioner already retired from service on attaining the age of superannuation on 31.03.2023.

4. The learned counsel appearing for the respondents not disputed the fact that the issue that was considered by the learned Single Judge in the above batch of writ petitions and the issue involved in this writ petition is one and the same, but contended that if petitioner as early as submit his



explanation by taking support from the said order passed by this Court, the respondent would consider the same and pass appropriate orders thereon.

5. The charge against the petitioner is that, he while joining in NLC as Wireless-cum-Communication Operator/Trainees had produced a certificate with regard to his educational qualifications issued by Commercial University Limited, New Delhi, which was found to be a fake University later as notified by the University Grants Commission, with an ulterior motive and secured employment. Thus it was alleged that the petitioner committed an act of misconduct falling under Sub-Clauses (iii), (xxxii), (xxxv) and (xxxviii) of NLC Employees Standing Order No.46.

6. This Court carefully gone through the order passed by this Court in W.P.Nos.940 of 2022 etc., batch, dated 11.03.2024 and in the said batch of writ petitions also the very identical charge was framed against other employees and appropriate punishment was imposed against the petitioners therein. However, this Court having taken note of the fact that the petitioners have completed more than two decades of service since they were employed in the respondent's organization, pleased to set aside the order of punishment



which are impugned in the said batch of writ petitions. The relevant portion of the said order of the learned Single Judge, which reads as follows:

12. On perusal of records revealed that the respondents had accepted the certificate issued by the Commercial University Ltd., Delhi as a valid certificate at the time of selection and appointment of the petitioners. After the period of 24 years, the respondents questioned the validity of the certificate, based on the notification issued by the University Grants Commission dated 08.12.2009, that too after the period of 20 years from the date of the petitioners' appointment.

7. From the above it is evident that on an identical charge, this Court has already taken a lenient view and the orders of punishment were set aside by this Court. No appeal is stated to have been filed against the above order.

8. In view of the same, whether the respondent should be permitted to continue with the disciplinary proceedings initiated against the petitioner in the light of the order passed by this Court or not is the only question to be considered by this Court. No doubt normally, writ petition against the show cause notice cannot be entertained, but in the instant case,



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very same and identical issue has come up for consideration before this Court and this Court came to the conclusion that the punishment cannot be sustained. Hence, this Court is of the considered view that it is unnecessary to relegate the petitioner to approach the respondent by submitting the explanation in response to the impugned show cause notice especially in the context of the fact that the petitioner has already retired from service. In these circumstances, this Court is of the considered view that the impugned show cause notice is liable to be set aside in the light of the order passed by this Court in W.P.Nos.940 of 2022 etc batch and accordingly, the show cause notice is set aside.

9. At this stage, it is brought to the notice of this Court by the learned counsel appearing for the petitioner that though the petitioner has already attained the age of superannuation on 31.03.2023, the terminal benefits of the petitioner are not settled because of the pendency of this writ petition. The respondent is directed to take appropriate steps to release the terminal benefits of the petitioner in accordance with law if not already released within a period of six weeks from the date of receipt of a copy of this order.



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10. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

10.07.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

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MUMMINENI SUDHEER KUMAR, J.,

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