



WEB COPY



W.P.No.305 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.305 of 2020
and
W.M.P.No.349 of 2020

P.Padma

....

Petitioner

Vs

1. Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep. by its Secretary,
144, Anna Salai,
Chennai – 2.

2. The Chairman-cum-Managing Director,
Tamil Nadu General and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai – 2.

3. The Chief Engineer (Personnel),
Tamil Nadu General and
Distribution Corporation Ltd.,
144, Anna Salai,
Chennai – 2.

4. The Chief Engineer (Distribution),
Tamil Nadu General and
Distribution Corporation Ltd.,
Thirunelveli Region,
Thirunelveli-11.



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5. The Superintending Engineer,
Tamil Nadu General and
Distribution Corporation Ltd.,
Virudhunagar Electricity Distribution Circle,
Virudhunagar.

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 27.04.2015 in Memo No.005816/256/Ni.Pi/C1/15-1 passed by the 4th respondent ; the order dated 24.10.2017 passed by the 2nd respondent in TANGEDCO (Permanent) CMD Nilai No.178, Administrative Branch, in the petitioner appeal dated 14.12.2017, confirming the above punishment imposed by the 4th respondent and the order dated 08.11.2019 passed by the 3rd respondent in (Per) FB TANGEDCO Proceedings No.11, rejecting the mercy petition and refusing to interfere with the above punishment, quash the same and consequently direct the respondents to restore the petitioner pay and leave, with all monetary and other consequential benefits and to refund the amounts payable to her due to withholding of one increment without cumulative effect for three years as per the impugned orders and to include her name between Sl.Nos.94 and 95 in the Panel/List of Persons found fit for promotion to the post of Executive Engineer (Electrical) in the order issued by the 2nd respondent in (Per) CMD TANGEDCO Proceedings No.18, dated 11.02.2019 and to promote her as Executive Engineer (Electrical), with effect from the date on which her immediate seniors and juniors were promoted to the said post, with due seniority, monetary benefits and all other consequential benefits.



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For Petitioner : Mr.V.Ajoy Khose
For Respondents : Mr.K.Purushothaman
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the fourth respondent dated 27.04.2015, thereby imposed punishment of stoppage of one increment for a period of three years without cumulative effect excluding leave period (increment means 3% of basic pay + grade pay) and the order passed by the second respondent dated 24.10.2017, thereby confirming the order passed by the fourth respondent and the order passed by the third respondent dated 08.11.2019, thereby rejected the mercy petition filed by the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner joined the service of the first respondent as an Assistant Engineer (Electrical) on 25.04.1995. Subsequently, she was promoted to the post of Assistant Executive Engineer. While she was working as Assistant Executive Engineer in the office of the fifth respondent, she was served with a charge memo dated 07.02.2014 under



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Rule 8(a) of the TNEB Discipline and Appeal Regulations, alleging that the petitioner had committed misconduct as per Rule 3(a) of the TNEB Employees Conduct Regulations. The allegation was that the petitioner failed to verify the non-inclusion of 11KV industrial feeder fed off from Vembakottai-33/11KV sub-station, which resulted in the non-implementation of the load shedding for two HT consumers during the period between 24.03.2012 and 10.10.2012 and had resulted in a heavy loss to the tune of Rs.4,36,07,342/-. The petitioner submitted her explanation before the fourth respondent. Without satisfying the explanation submitted by the petitioner, an enquiry officer was appointed to conduct enquiry. After receiving the enquiry report, the fourth respondent imposed a punishment of stoppage of one increment for a period of three years, without cumulative effect, excluding leave period (increment means 3% of basic pay + grade pay). Aggrieved by the same, the petitioner preferred an appeal before the second respondent and the same was also dismissed. Once again, the petitioner preferred a mercy petition before the third respondent and the same was also rejected.

4. The learned counsel appearing for the petitioner submitted that the petitioner was punished without conducting any proper enquiry.



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The charge itself assumes that the petitioner failed to discharge her duties diligently and proceeding on the premise that her negligence alone caused the loss. It has to be proved by enquiry and without holding any enquiry cannot be said that the allegations were proved. He further submitted that similarly placed persons were awarded lesser punishment by the lower Court, whereas the petitioner was imposed with a punishment of stoppage of one increment for a period of three years without cumulative effect. He also submitted that her date of annual increment was 1st of January of every year. Consequently, her annual increments as on 01.01.2016, 01.01.2017 and 01.01.2018 were stopped without cumulative effect. The crucial date of preparing the panel for promotion to the post of Executive Engineer is 1st April of every accounting year.

5. However, the first respondent published the panel for promotion to the post of Executive Engineer on 11.02.2019 for the year 2018-2019 without including the petitioner. Therefore, the petitioner submitted a representation and the same was not considered. Hence, the petitioner was constrained to approach this Court by way of Writ Petition in W.P.(MD) No.3971 of 2019. As directed by this Court, the request made by the petitioner was rejected and she was informed that there was



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a currency of punishment as of the crucial date for promotion. It was further stated that her case would be considered only after disposal of the mercy petition. However, the mercy petition submitted by the petitioner was also dismissed and her name was also not included in the panel of the year 2018-2019 for promotion to the post of Executive Engineer (Electrical).

6. A perusal of the counter filed by the fourth respondent and the submissions made by the learned Standing Counsel reveals that the petitioner was issued with a charge memo dated 07.02.2014 . The charges framed against the petitioner are as follows :

(i) She has not verified the non inclusion of 11KV industrial feeder fed off Vembakottai 33/11KV SS, while submitting the list of feeders to be load shedded with timings of exempted feeders from load shedding.

(ii) The authorized TANGEDCO's load sheeding to H.T.S.C.No.230 & 302 had not been implemented from 24.03.2012 to 10.10.2012 which has resulted heavy loss amount to the tune of Rs.4,36,07,342/- to the TANGEDCO.

(iii) This is negligence of duty.



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7. Upon submission of explanation, it was found to be not acceptable and if the petitioner had acted diligently, the loss could have been avoided. Therefore, based on the proven charges, a final order was been passed by imposing punishment on the petitioner. As per the records, only eight days were considered eligible for load shedding exemption , while the excess demand/energy was calculated for the remaining 193 days for the period from 24.03.2012 to 10.10.2012. As per the instructions, if the petitioner had performed her duties and responsibilities, diligently in preparing the monthly list of consumers exempted from shed shedding, the huge loss amounting to Rs.4,36,07,342/- could have been avoided. During the said period, the HT consumers in SC No.230 and 302 had procured third party power. The quantum of powers procured was deducted from the CMRI downloaded data and the penalty was calculated for the remaining quantum only. Therefore, the petitioner was imposed with a punishment and the same was confirmed by the Appellate Authority.

8 Insofar as the inclusion of the petitioner's name in the panel for promotion to the post of Executive Engineer (Electrical) is concerned, the petitioner was undergoing punishment as of the crucial date i.e.,



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01.01.2018. The currency of punishment was completed only after the crucial date.

9. In view of the above, this Court finds no infirmity or illegality in the orders passed by the fourth respondent. Therefore, the writ petition lacks merit and is liable to be dismissed. Consequently, connected miscellaneous petition is closed. No costs.

20.08.2024

Internet : Yes/No
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN, J.

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