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W.P.No.12247 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.12247 of 2016
and WMP.Nos.10582 and 10583 of 2016

D.Karthikeyan

... Petitioner

Vs.

1.The Chairman cum Managing Director,
TANGEDCO Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer (Personnel),
TANGEDCO Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer (P&A),
Nagai Electricity Distribution Circle,
TANGEDCO Ltd.,
Nagapattinam.

4.The Executive Engineer,
Nagai Electricity Distribution Circle,
TANGEDCO Ltd.,
Nagapattinam.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order passed by the 3rd respondent in



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Ku.Aa.No.435/Ni.p.1/U.1/Ko.Kanakittalar/14 dated 12.11.2014 and consequential order of the 4th respondent in Ku.Aa.No.9052/Se.Pa/O&M/Nagai/Ko.Thanikai/2014, dated 26.11.2014 and quash the same and direct the respondents to restore the old scale of pay to the post of Assessor.

For Petitioner : Mr.R.D.Ashok Kumar for
Mr.S.N.Ravichandran

For Respondents : No appearance

* * * * *

ORDER

This writ petition is filed to call for the entire records connected with the impugned order passed by the 3rd respondent in Ku.Aa.No.435/Ni.p.1/U.1/Ko.Kanakittalar/14 dated 12.11.2014 and consequential order of the 4th respondent in Ku.Aa.No.9052/Se.Pa/O&M/Nagai/Ko.Thanikai/2014, dated 26.11.2014 and quash the same and direct the respondents to restore the old scale of pay to the post of Assessor.

2.The petitioner's case is that after completion of six months training the third respondent by order dated 16.03.2009, appointed the petitioner as Assessor in time scale of pay attached to the post. After the lapse of five and half years without issuing any notice to the petitioner, the third respondent



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passed the impugned order cancelling the petitioners appointment as Assessor stating that the petitioner was wrongly appointed as Assessor instead of Assessor Grade II. As a consequence of the 3rd respondents cancellation order, the 4th respondent passed the recovery order dated 26.11.2014, seeking to recover Rs.1,10,271/- by deducting Rs.5,271/- in December, 2014 and the remaining amount of Rs.5,250/- in equated monthly installments for 20 months. The petitioner aggrieved by the aforesaid two orders filed the above writ petition.

3.The learned counsel for the petitioner at the time of hearing submitted that common impugned reversion order dated 12.11.2014 was passed by the 3rd respondent against the petitioner and two other persons viz., K.Sugumar and N.Sridevi. The said persons challenged the order before this Court in W.P.Nos.31203 & 31204 of 2014 and obtained interim stay on 18.11.2014. As the said persons obtained interim stay no consequential orders for recovery were passed against the said persons. The learned counsel submitted that the aforesaid writ petition's were allowed and the common impugned order in so far as the petitioner's therein was set aside. The learned counsel therefore submitted that the present writ petition also deserved to be allowed.



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4.I have heard the learned counsel for the petitioner and I have perused the orders dated 09.07.2024 passed by this Court in W.P.Nos.31203 & 31204 of 2014.

5.This Court in the above said Writ Petitions held as follows:

“5.A perusal of the impugned order would clearly indicate that it does not taken into account the terms of the appointment order viz., on satisfactory completion of six months, the petitioner would be appointed in the post of Assessor in the time scale of pay of Rs.3370-100-6370. The petitioner has been regularized in the post of Assessor nearly nine months after her appointment and therefore, it is very much in keeping with the terms of her appointment. Therefore, the impugned order of reverting the petitioner to the post of Assessor Grade-II, that too, without issuing a show cause notice and hearing the petitioner, is per se illegal and has to be set aside.

6.That apart, the recovery of excess amount as alleged cannot be effected in the light of the judgment of Hon'ble Supreme Court in the case of State of Punjab vs. Rafiq Masih reported in (2015) 4 SCC 334 popularly called as White Washer's Case. Further, the post of Assessor falls within the category of Clause III and recovery of amount from employees to this Clause has been held to be impermissible under law. Therefore, the



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impugned order has to be necessarily quashed and is accordingly, quashed.”

6. Even in the present case in the petitioner's appointment order dated 10.09.2008, in Clause 3 it is stated that the petitioner would be appointed regularly on satisfactory completion of six months training period. It is seen that in terms of the appointment order and after successful completion of six months training, the 3rd respondent by order dated 16.03.2009, appointed the petitioner as Assessor in time scale of pay attached to the post. Even in the petitioner's case no show cause notice was issued before reverting the petitioner. It also seen that the common order of reversion was passed on 12.11.2014 against the petitioner and the petitioner's in the aforesaid writ petition's. As the common reversion order was set aside by this Court, considering the similarity of facts, I am of the view that the order in Writ Petitions in W.P.Nos.31203 & 31204 of 2014 squarely applies to the petitioner's case also and therefore, the impugned order deserves to be set aside and the same is set aside.

7. Accordingly, this Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions stand



closed.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non-speaking order
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To

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N.MALA,J.

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