



W.P.No.24857 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.24857 of 2009

1. G.Raman
(Deceased)
2. R.Dhanalakshmi
3. R.Anbukumar
4. S.ChitraPetitioners
(P2 to P5 substituted as LR's of deceased sole petitioner)

Vs

1. The Chief Engineer
Distribution, Chennai Zone – North,
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai – 600 002.
2. The Superintending Engineer
Chennai Electricity Distribution
Circle/Central,
Tamil Nadu Electricity Board,
Chennai – 600 034.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the record pertaining to order passed by the 2nd Respondent bearing Ref.No.03211/986-4/Ni.Pi.4/U.1/Ko.O/Na/2007 dated 29.06.07 confirmed by 1st Respondent vide order dated 27.08.2008 bearing Reg.No.080/468/G6/G61/2008-1 and



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quash the same and directing the Respondent to pay the terminal benefits and pension within a stipulated time.

For Petitioners : Mr.M.Arun
for Mr.T.K.S.Gandhi
For Respondents : Mr.David Sundar Singh
Standing Counsel for TNEB

ORDER

The Writ Petition has been filed calling for the record pertaining to order passed by the 2nd Respondent bearing Ref.No.03211/986-4/Ni.Pi.4/U.1/Ko.O/Na/2007 dated 29.06.07 confirmed by 1st Respondent vide order dated 27.08.2008 bearing Reg.No.080/468/G6/G61/2008-1 and quash the same and directing the Respondent to pay the terminal benefits and pension within a stipulated time.

2. It is the submission of the learned counsel for the petitioner that, petitioner entered the services of Tamil Nadu Electricity Board in the year 1970. He rendered 37 years of blemishless service. While so, he was served with a charge memo dated 06.01.2007 containing three articles of charges of alleged irregularities said to have been committed by the petitioner while he was functioning as a Stores Supervisor in Sub Store at Egmore during the period from 01.01.2003 to 31.12.2005. He further submitted that, there was



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severe shortage of man power and no action had been taken for appointment of sufficient men despite intimating it to his Seniors. It is the duty of the line man and wireman to bring the materials collected from the Central Store Mylapore to the Egmore Sub Store for making proper entry in the Store Record Book. However, on several occasions, the wireman and the lineman have directly taken the material from Central Store/Mylapore to the concerned sections without making the required entry in the Service Record Book, Egmore. In such case, it is the duty of concerned Assistant Executive Engineer/ Assistant Engineer of concerned section who have received the material to give custody certificate to the Egmore sub store. Though, this was reported immediately to the Superiors, so far, no disciplinary action was taken against the line man and the wire man.

3. It is the main submission of the learned counsel for the petitioner that, the departmental enquiry was not conducted as required under law. The disciplinary authority has not independently assessed the evidence, applied his mind and passed the final orders. There is no consideration of petitioner's defence when the final orders passed. The disciplinary proceedings and the punishment imposed are without jurisdiction.



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Therefore, this petition.

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4. In reply, Mr.David Sundar Singh (Standing Counsel for TNEB) appearing for the respondent submitted that, enquiry was properly conducted. Petitioner participated in the enquiry. After considering the materials on record, punishment was imposed against him. Appeal filed against the order passed by the disciplinary authority was rejected on 27.08.2008. Thus, this Writ Petition has no merits and it is liable to be dismissed.

5. From the submission of the learned counsel for the petitioner, it is seen that the main grounds on which, he challenges the impugned order passed by the 1st respondent are as follows:

- (i) no proper departmental enquiry was conducted.
- (ii) The disciplinary authority has not independently assessed the evidence, applied its mind and passed the order.
- (iii) At the time of passing the final order, petitioner's defence statement dated 11.04.2007 was not considered at all.



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6. Considered the rival submissions and perused the records. The main challenge is made against the conduct of enquiry, non consideration of enquiry report independently and non consideration of defence statement dated 11.04.2007.

7. The perusal of the enquiry report shows that, petitioner was enquired about the charges framed against him. Enquiry Officer asked him whether he admits the charges framed against him. Petitioner denied the charges. Certain formal questions with regard to charges have been asked. Petitioner responded and recorded his side of the case and denied all the charges. Enquiry was started on 27.03.2007 and ended on the same day. No evidence was recorded and no documents were produced in support of the charges. With the closure of enquiry on the same day on 27.03.2007, petitioner was directed to produce defence statement on or before 24.07.2007. Petitioner submitted his defence statement on 11.04.2007. However, in the final order passed by the Superintending Engineer namely 2nd respondent dated 29.06.2007, there is no reference about the consideration of the petitioner's defence statement dated 11.04.2007. After recording the charges against the petitioner and conduct of enquiry on



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27.03.2007, it was recorded that, Enquiry Officer's report was accepted and therefore it was decided to impose the punishment. It was communicated to the petitioner and that was responded with reply. Since, the reply was not satisfactory, it was decided to impose the punishment specified in the memorandum. Accordingly, the final order of removal from service and payment of Rs.19,99,072/- was ordered against the petitioner. This order was confirmed by the Appellate Authority, namely 1st respondent.

8. The perusal of the order passed by the 2nd respondent shows that, Disciplinary Authority has not considered the enquiry report properly and in the manner expected it to be considered. 2nd respondent had just accepted the enquiry report and proceeded to impose the punishment even without considering the defence statement of the petitioner dated 11.04.2007. As already indicated, there was no oral or documentary evidence produced during the course of the enquiry. Without production of any evidence in support of the charges, Enquiry Officer had found the petitioner guilty and that itself is not correct. Therefore, punishment imposed accepting the enquiry report is also not correct and in accordance with law.



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9. Taking into consideration the above aspects, this Court is of the considered view that the enquiry report and the order passed by the 2nd Respondent in Ref.No.03211/986-4/Ni.Pi.4/U.1/Ko.O/Na/2007 dated 29.06.2007 confirmed by 1st Respondent in Reg.No.080/468/G6/G61/2008-1 dated 27.08.2008 have to be set aside and accordingly set aside.

10. During the pendency of the Writ petition, 1st petitioner namely G.Raman had died and his legal representatives namely petitioners 2 to 4 had been impleaded. Though this petition is filed for seeking terminal benefits and pension, in view of the death of the petitioner, this Court directs the respondents to pay the terminal benefits due to the deceased petitioner and also the family pension to the 2nd petitioner as per rules and this exercise shall be completed within a period three months from the date of receipt of copy of the order.

10. Accordingly, this Writ Petition is allowed in part. Parties are directed to bear their own cost.

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Index :Yes/No
Internet:Yes/No
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To

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G.CHANDRASEKHARAN, J

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