



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.26621 of 2010 and 24105 of 2012

W.P.No.26621 of 2010

S.Vairamani

... Petitioner

Vs.

1. The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.144, Anna Salai,
Chennai – 600 002.
2. The Superintending Engineer,
Purchase and Administration,
North Chennai Thermal Power Station,
Chennai – 600 120.
3. The Chief Engineer,
North Chennai Thermal Power Station,
Chennai – 600 120.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of calling for the records pertaining to the order passed by the 2nd respondent in No.Adm.II/A1/R.8738/2002 dated 26.8.2002 and confirmed by the order of the 3rd respondent in No.Adm.II/A1/R.471/2002 dated 02.11.2002 and quash the same and direct the respondents to grant all consequent attend, service and monetary benefits with costs throughout.

W.P.No.24105 of 2012

S.Vairamani

... Petitioner

Vs.



1. The Tamil Nadu Generation and
Distribution Corp. Ltd., (TANGEDCO), Formerly TNEB,
Represented by its Chairman -cum- Managing Director,
No. 144, Anna Salai, Chennai – 600 002.

2. The Chief Engineer, TANGEDCO,
North Chennai Thermal Power Station, Chennai – 600 120.

3. The Superintending Engineer (P&A) TANGEDCO,
North Chennai Thermal Power Station, Chennai – 600 120.

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

5. Chief Internal Audit Officer,
TANGEDCO, No.144, Anna Salai,
Chennai – 600 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of calling for the records pertaining to the order passed by the 2nd respondent in No.Adm.II/A1/R.8738/2002 dated 26.8.2002 and confirmed by the order of the 3rd respondent in No.Adm.II/A1/R.471/2002 dated 02.11.2002 and quash the same and direct the respondents to grant all consequent attend, service and monetary benefits with costs throughout.

In Both Writ Petitions

For Petitioner : Mr.A.Mohammed Ismail

For Respondents : Mr.K.Rajkumar

COMMON ORDER

These two writ petitions are at the instance of the very same petitioner and against the respondent Board and as such, both the matters are taken up for



consideration together and are being disposed of by this common order.

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2. W.P.No.26621 of 2010 has been filed by the petitioner aggrieved by Memo No.Adm.II/A1/R.8738/2002 dated 26.08.2002, whereby the punishment of “*stoppage of one increment without cumulative effect*” was imposed on the petitioner, as well as the order dated 02.11.2002 passed by the Respondent No.3, rejecting the appeal filed by the petitioner and confirming the orders passed by the Respondent No.2 dated 26.08.2002.

3. While the petitioner was working as ‘Assistant Engineer’ in the respondent Board, he was subjected to disciplinary proceedings by issuing a charge memo dated 12.10.2001 containing four charges. The said four charges reads as under:

“CHARGE NO.1

Thiru.S.Vairamani, Assistant Engineer/ Mechanical disobeyed the reasonable orders of his superiors even though specifically instructed to handover the section in full shape.

CHARGE NO.2

He has recorded the measurement of the work supervised by him and that related to agreement No.EE/Mech./CHA/NCTPS/ K2 No.17/2001-02 in “M” Book No.A 1257 (Page No.45) of another division and obtained signature of the contractor in acceptance of the measurements, but denied that he has not



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supervised the work

CHARGE NO.3

When specifically called for to hand over records related to agreement No.EE/Mech./CHA/NCTPS/K2 No.17/2001-02 he deleberately scored out the recording of measurement in the measurement book A-1257 (Page No.45) before handing over.

CHARGE NO.4

To substantiate his said act of recording and scoring out of measurements he had stated that he acted on the oral instruction of his superiors, though such actions shall not be carried out on oral instructions.”

4. The petitioner herein submitted his explanation denying the said charges on 01.11.2001 and thereafter, an Enquiry Officer was appointed on 02.02.2002 and after conducting an enquiry into the charges, a report was submitted by the Enquiry Officer on 18.06.2002. A copy of the said enquiry report was furnished to the petitioner affording an opportunity to submit his further representation. Accordingly, the petitioner submitted his further representation dated 01.08.2002 and thereafter, the Respondent No.2 passed the impugned order dated 26.08.2002, imposing the punishment of ‘*Stoppage of one increment without cumulative effect*”.

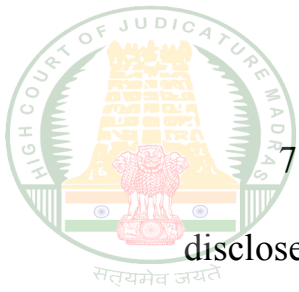
5. A perusal of the impugned order passed by the Respondent No.2 dated 26.08.2002 would disclose that the said order is cryptic in nature and without



considering any of the defence of the petitioner as well as the objections that are raised by the petitioner in response to the report of the Enquiry Officer.

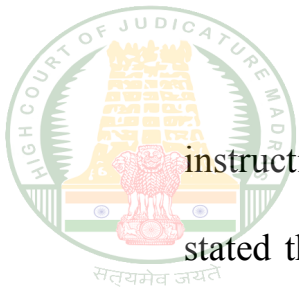
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6. Availing the opportunity of raising objections on the report of the Enquiry Officer, the petitioner has submitted a detailed objections through his letter dated 01.08.2002, running into three pages, but the Respondent No.2, while passing the impugned order having referred to the said explanation failed to take into consideration any of the objections raised in the said explanation, except stating that the Respondent No.2 finds that the explanation is neither convincing nor acceptable. As a matter of fact, the petitioner has tried to explain the charges in detail while submitting his explanation on the charge memo and the same is also reiterated while raising objection against the report of the Enquiry Officer. But, none of the contentions/ objections raised by the petitioner were taken into consideration by the Respondent No.2. The Respondent No.2, instead of considering the objections raised by the petitioner and the explanation offered by him in an appropriate perspective, failed to consider the same resulting in passing the impugned order in an arbitrary manner. No reasons were assigned by the Respondent No.2 to conclude that the explanation offered by the petitioner is not convincing.



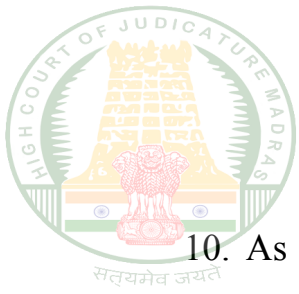
7. Be that as it may, a perusal of the report of the Enquiry Officer also discloses that the respondents failed to examine any witnesses in support of the charges levelled against the petitioner and no material is placed on record during the course of the enquiry except recording the statement of the petitioner.

8. Further, the reasoning assigned by the Enquiry Officer to conclude that the charges levelled against the petitioner as proved are not supported by any material except the statement the petitioner. The statement of the petitioner is only explaining the circumstances under which the measurements were recorded in the handbook, especially at the instance of the Executive Engineer concerned and based on his oral instructions. The Enquiry Officer or the respondent Board failed to examine the Executive Engineer to rebut the contention raised by the petitioner of having acted on the oral instruction of the then Executive Engineer. However, the Enquiry Officer proceeded to conclude that the action of the petitioner in acting on the oral instructions of the Executive Engineer cannot be accepted, is again another absurdity. Acting on the oral instructions of the Executive Engineer is not the charge against the petitioner. The stand of the petitioner is that he acted in terms of the oral instructions issued by his superior. Hence, it is for the respondent Board to verify whether any such oral instructions were issued or not. The petitioner, having acted upon such oral



instructions and recording the measurements in handbook unwillingly, has stated that he has not signed such measurements and when he was required to hand over the charge to his successor officer, he struck off the said measurements and handed over the charge. Once the petitioner is not convinced with the measurements recorded in the handbook, allegedly at the instance of the Executive Engineer and his oral instructions, there is nothing wrong in he not signing the said measurements and striking off the said measurements while handing over the charge of the office held by him to his successor. All this only shows that the petitioner has acted bonafide and in interest of the respondent Board. But, for the reasons best known, the Enquiry Officer, as well as the Respondent No.2 have considered the explanation offered by the petitioner in an unreasonable manner and held that the charges levelled against the petitioner as proved without adducing any evidence in support of the charges.

9. Be that as it may, a perusal of all the four charges would only disclose that the said charges are all trivial in nature and as vague as they can be. No reasonable man can be expected to submit a substantial explanation to the said charges as no material particulars were furnished in the charges nor any documents are furnished to the petitioner in support of such charges nor they were brought on record during the course of enquiry.



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10. As already noted above, the Respondent No.2 has passed a cryptic order without considering the explanation and the further representation submitted by the petitioner. Thus, the impugned order dated 26.08.2002 is liable to be quashed because of its cryptic nature. When the petitioner filed a detailed appeal dated 25.09.2002 before the Respondent No.3, the same was rejected by the Respondent No.3 once again by passing a cryptic order. Aggrieved by the impugned order, the petitioner on an earlier occasion filed W.P.No.4298 of 2003. However, the said writ petition was withdrawn purportedly on the assurance given by the respondents to withdraw the punishment on 10.03.2008. However, it was thereafter once again the petitioner approached this court by filing the present writ petition, questioning the impugned orders, stating that the respondents failed to honour their commitment in its full, but had only acted partially by recalling an order dated 27.06.2008 and the punishment imposed on the petitioner on 12.10.2004 and dropping the disciplinary proceedings initiated through charge memo dated 16.10.2004, while revoking the suspension orders dated 30.11.2004 and 07.08.2007. The period of suspension also claimed to have been regularized pursuant to the said agreement and he was also paid the arrears for the suspension period. Thus, when the respondents have not honoured their alleged commitment of withdrawing the punishment in question,



the petitioner once again approached this court. These aspects were clearly averred in Paragraphs 4 and 5 of the affidavit filed in support of the writ petition.

However, for the reasons best known, the respondents have not chosen to file any counter-affidavit contradicting the said statement, as made in Paragraphs 4 and 5 of the affidavit. The said paragraphs reads as under:-

“4) I submit that it was agreed by the respondents vide letter dated 05.11.2007 that if I withdrew all the cases I would be given due promotion and that the respondents would recall various punishment imposed on me, including the punishment under challenge. Accordingly, I withdrew all the cases including WP No. 4298 of 2003, this Hon'ble court permitted to withdraw the said Writ petition by its order dated 10.3.2008.

5) I submit that though said agreement was acted upon by the respondents partly by recalling vide order dated 27.06.2008, the punishments imposed on me on 12.10.2004 and dropped the disciplinary proceedings initiated through Memo dated 16.10.2004 and also revoked two suspension orders dated 30.11.2004 and 07.08.2007 and regularized the period of suspension and also paid the arrears for the suspension period. Further, the respondents also closed the Hopper Work order No. CE/149-2/2001-02 dated 13.09.2001 assigned to the petitioner and also relieved me from the said work order on 01.07.2008.”

As the above averments made in the affidavit filed in support of the writ petition remain uncontroverted, this court has no option except to accept the said contents as true. Therefore, this court is inclined to examine the present writ



petition on merits once again without reference to withdrawal of the previous writ petition.

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11. In the light of the above conclusions arrived at by this court holding that the charges are vague and the impugned order dated 26.08.2002 passed by the Respondent No.2 is cryptic in nature and also considering the fact that there is no evidence that is brought on record in support of the charges during the course of enquiry, this court is of the considered view that the impugned order bearing No.Adm.II/A1/R.8738/2002 dated 26.8.2002 is liable to be quashed and the same is accordingly quashed.

12. Equally, the order passed by the Respondent No.3 bearing No.Adm.II/A1/R.471/2002 dated 02.11.2002 is cryptic in nature. Hence, the same is also hereby quashed.

13. The petitioner herein, who served in the respondent Board for long years had already retired from service about 13 years back and hence, this court is also not inclined to allow the respondents to take any further action on the same charges.



14. Then, coming to the relief sought in W.P.No.24105 of 2012 is concerned, the relief sought in this writ petition is with regard to his fixation of pay without taking into consideration any of the punishments. As the said punishment that was imposed through the order dated 26.08.2002 is quashed by this court today, the petitioner is automatically entitled for the relief sought in W.P.No.24105 of 2012. Accordingly, this writ petition is also allowed directing the respondents to fix the pay of the petitioner without taking into consideration the punishment that was imposed through proceedings dated 26.08.2002 passed by the Respondent No.2 and pass consequential orders, as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order.

15. Accordingly, both the writ petitions are allowed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

19.12.2024

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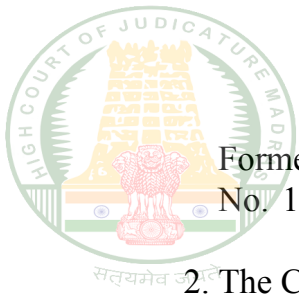
Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Tamil Nadu Generation and Distribution Corp. Ltd., (TANGEDCO),



Formerly TNEB, Represented by its Chairman -cum- Managing Director,
No. 144, Anna Salai, Chennai – 600 002.

2. The Chief Engineer, TANGEDCO,
North Chennai Thermal Power Station, Chennai – 600 120.
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8. The Chief Engineer, North Chennai Thermal Power Station, Chennai – 600 120.



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W.P.Nos.26621 of 2010 and 24105 c



MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.26621 of 2010 and 24105 of 2012

19.12.2024



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W.P.Nos.26621 of 2010 and 24105 of 2012

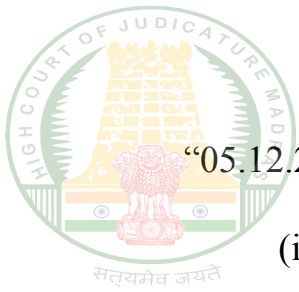
MUMMINENI SUDHEER KUMAR, J.

These two writ petitions are listed today under the caption 'for being mentioned' and it is brought to the notice of this Court that there are certain typographical errors crept in the order uploaded on the website of this Court.

2. This Court has carefully considered the matter and is convinced that there are certain typographical errors crept in the order and they need to be rectified.

3. Accordingly, the following amendments shall take place in the common order passed in W.P.Nos.26621 of 2010 and 24105 of 2012:

(i) The abovesaid two writ petitions were disposed of by order dated 05.12.2025. However, in the uploaded order, the date of order is wrongly mentioned as 19.12.2024 instead of 05.12.2024. On verification, it is noticed that the said order was passed on 05.12.2024, but not 19.12.2024. Hence, the date of order shall be modified as 05.12.2025 instead of 19.12.2024. The date of order at all the places in the common order shall stand replaced by

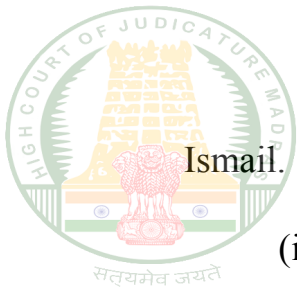


“05.12.2024” in the place of 19.12.2024.

(ii) Instead of reflecting the prayer in W.P.No.24105 of 2012, the prayer in W.P.No.26621 of 2010 is reflected second time at page 2 of the uploaded order. Hence, the same shall stand substituted with the prayer in W.P.No.24105 of 2012 as follows:

“Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned pay fixation order of the 3rd respondent passed in Memo No.1924/Adm.I/A1/2012 dated 19.06.2012 and quash the same and consequently direct the 3rd respondent to re-fix the pay in the post of AEE/Mechl without reference to any punishment and by calculating eligible consequential eligible increments and arrears of pay and other monetary benefits and further direct that the amount of Rs.59,724/- be repaid, which was recovered on the pretext that the said sum was the amount equivalent for the unexpired and unimplemented portion of the punishment orders.”

(iii) While indicating the appearance in the order 'for petitioner', the name of one Mr.A.Mohammed Ismail was mentioned, but the matter was argued by the petitioner himself as party-in-person. Hence, the same shall be indicated as “S.Vairamani, Party-in-Person”, by deleting the name of Mr.A.Mohammed



Ismail.



(iv) For paragraph 14 of the order at page 11, the following paragraph

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shall stand substituted duly rectifying the typographical errors:

“14. Then, coming to the relief sought in W.P.No.24105 of 2012 is concerned, the relief sought in this writ petition is with regard to his fixation of pay without taking into consideration any of the punishments. As the said punishment that was imposed through the order dated 26.08.2002 is quashed by this court today, the petitioner is automatically entitled for the relief sought in W.P.No.24105 of 2012. Accordingly, this writ petition is also allowed, quashing the impugned order dated 19.06.2012 and further directing the respondents to fix the pay of the petitioner without taking into consideration the punishment that was imposed through proceedings dated 26.08.2002 passed by the Respondent No.2 and pass consequential orders, as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order.”

4. Registry is directed to carry out the above modifications to the uploaded common order and re-issue/upload the order forthwith.

04.03.2025



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W.P.Nos.26621 of 2010 and 24105 c





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W.P.Nos.26621 of 2010 and 24105 c



MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.26621 of 2010 and
24105 of 2012

Dated : 04.03.2025