



W.A.No.911 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.A.No.911 of 2021

and C.M.P.No.5379 of 2021

The Chairman and Managing Director,
Tamil Nadu Minerals Ltd.,
Kamarajar Salai,
Chepauk, Chennai-600 005.

.. Appellant

Vs

R.Venugopal

.. Respondent

Prayer: Appeal filed under Clause 15 of the Letters patent against the order dated 11.03.2020 passed in W.P.No.5794 of 2013 on the file of this Court.

For the Appellant : Mr.B.Vijay

For the Respondent : Mr.K.M.Ramesh
Senior Counsel
For Mr.V.Subramani



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JUDGMENT

(Judgment of the Court was made by
S.M.SUBRAMANIAM, J.)

The respondent instituted the writ proceedings challenging the order of punishment dated 05.03.2013 passed by the appellant herein.

2. The respondent was holding the post of Mine Mate and a charge memo was issued on 12.09.2011 framing two charges. The respondent submitted his explanation denying the charges. An enquiry officer was appointed to conduct an enquiry, who, in turn, afforded opportunity to the respondent and submitted his final enquiry report. Charge No.1 was held not proved and Charge No.2 was held proved. However, the Disciplinary Authority disagreed with the findings of the enquiry officer and proceeded on the basis that both the charges are held proved and accordingly, imposed the punishment of reversion till the date of retirement and consequently, revised the pay to the reverted post.



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3. The Writ Court considered the grounds raised between the parties and held that the Disciplinary Authority, while disagreeing with the findings of the enquiry officer, is bound to record reasons and communicate the same to the delinquent officer by issuing further show cause notice enabling the delinquent officer to submit his explanation. The said procedure admittedly had not been followed. The Disciplinary Authority communicated the enquiry report by issuing the second show cause notice and passed the order of punishment which was challenged in the writ proceedings.

4. Mr.K.M.Ramesh, learned senior counsel appearing on behalf of the respondent, would submit that the charges are flimsy and the retirement benefits in the post of Mine Mate was not settled in favour of the respondent. The Writ Court has rightly considered the ground that the petitioner had attained the age of superannuation and therefore, the punishment need not be implemented. Thus, the writ appeal is to be rejected.



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5. Mr.B.Vijay, learned counsel appearing on behalf of the appellant, would oppose by stating that the writ petition was allowed on technical grounds. The Disciplinary Authority has not issued further show cause notice recording reasons for disagreeing with the findings of the enquiry officer. Therefore, an opportunity must be provided to the Disciplinary Authority to set right the procedural violation and take a decision on merits and in accordance with law.

6. We are of the considered opinion that departmental disciplinary proceedings initiated against the public servants are to be concluded by following the due process. Merely on certain hyper technical grounds, the person who has involved in a misconduct cannot be allowed to escape from the clutches. In such circumstances, Courts do remand the matter for following the procedures and take a decision on merits and in accordance with law. Mere retirement of an employee would not be a ground to seek exoneration from the departmental disciplinary proceedings.



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7. The disciplinary proceedings in the present case was initiated when the respondent was in service. Therefore, pendency of the litigation cannot be cited as a reason for securing the relief relating to the terminal benefits. Therefore, Courts, in such circumstances, are expected to provide an opportunity to the employer to decide the issues on merits and in accordance with law. Grant of exoneration merely on the ground of retirement will set a wrong precedent. Many such similarly placed employees on attaining the age of superannuation would make an attempt to escape from the clutches of the disciplinary proceedings. Thus, we are inclined to consider the appeal for the limited purpose of remanding the matter and allowing the Disciplinary Authority to take a decision on merits and in accordance with law.

8. At this juncture, Mr.Vijay, learned counsel for the appellant, would submit that due to the interim order granted in the writ petition, the punishment order, which was challenged in the writ petition, was not implemented by the Competent Authority. The



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respondent continued in the same post of Mine Mate and retired from service. In that view of the matter, we are inclined to set aside the original order of punishment also.

9. Accordingly, the order impugned in the writ petition dated 05.03.2013 in Na.Ka.No.7945/D1/11-4 passed by the appellant herein is set aside and consequently, the order dated 11.03.2020 passed in W.P.No.5794 of 2013 is also set aside. The matter is remanded back to the appellant for issuing further show cause notice to the respondent by recording reasons for disagreeing with the findings of the enquiry officer in his report and on receipt of the explanation if any from the respondent, pass orders on merits and in accordance with law.

10. The writ appeal, accordingly, stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) (C.K., J.)
26.06.2024

Index : Yes
NC : Yes



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