



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2024

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CORAM:

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.21790 of 2016
and W.M.P.No.18635 of 2016

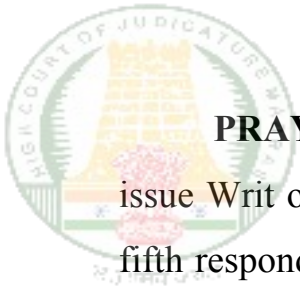
M. Nandakumar

... Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation Ltd., Rep.by its Chief Engineer (Personnel)
No.144, Anna Salai, Chennai – 2
2. The Chief Engineer/Distribution
Erode Region, Tamil Nadu Generation and Distribution Corporation Ltd.,
Erode.
3. The Superintending Engineer
Erode Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Ltd., Erode – 9.
4. Thangavel
The Superintending Engineer
Erode Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Ltd., Erode – 9.
5. The Executive Engineer (Central)
Superintending Engineer (In- charge)
Erode Electricity Distribution Circle
Tamil Nadu Generation and Distribution Corporation Ltd., Erode – 9.

... Respondents



PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorari calling for the records pertaining to the order passed by the fifth respondent in Memo Memo.Ku.AA.No.018432/307/Ni.Pi.1(3)/Ko.O.Na/2014-8 dated 09.06.2016 and quash the same.

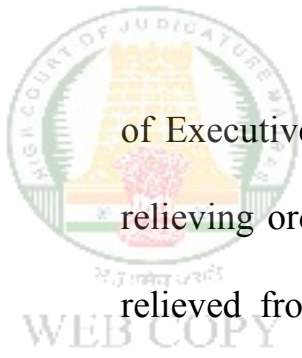
For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition is filed challenging the order dated 09.06.2016 passed by the fifth respondent calling the petitioner to show cause on the proposed punishment of compulsory retirement.

2. The petitioner joined the service of the 1st respondent Corporation as an Assessor on 14.05.2004 and was posted to work under the control of the third respondent. While so, one S.Dhakshinamurthy gave a false complaint against the petitioner to the Vigilance Cell/Department of the first respondent Corporation stating that the petitioner collected a sum of Rs.20 lakhs assuring to procure employment in the first respondent Corporation. Based on the complaint given by the said Dhakshinamurthy to the Vigilance Department, the second respondent issued a memo dated 06.07.2015 and transferred the petitioner from Modakurichi O & M Section in Erode Distribution Circle to the Salem Electricity Distribution Circle. The Superintending Engineer, Salem Electricity Distribution Circle, in turn issued him a <https://www.mhc.tn.gov.in/judis> reposting/re-allotment order dated 10.08.2015 directing him to join duty in the Office



of Executive Engineer, O & M Section, Salem South Division, after getting proper relieving order from the office in which he was working. As the petitioner was not relieved from Modakurichi, O & M Section, as per the above two orders dated 06.07.2015 and 10.08.2015 issued by the respondents he made a representation dated 19.10.2015, to the third respondent, through proper channel requesting him to relieve him from Modakurichi, O & M Section, so as to join in the transferred place as per the above orders or as per the order of the first respondent dated 14.12.2007 in Coimbatore Electricity Distribution Circle/North. However, the 3rd respondent did not issue any direction relieving him from Modakurichi, O & M Section and also did not pass any orders on his representation dated 19.10.2015. Therefore, he filed W.P.No.16105 of 2016, praying for a direction to issue him relieving order as per the first transfer order dated 14.12.2007. This Court disposed of the writ petition as infructuous. According to the petitioner, the complainant Dhakshinamorrthy, was a relative of the fourth respondent and therefore, he did not relieve the petitioner to join in the transferred place. According to the petitioner, in order to get rid of him and to avoid answers to the irregularities and malafide actions committed by him, the fourth respondent instructed the fifth respondent to issue the impugned order dated 09.06.2015, proposing to impose the punishment of compulsory retirement from service. Hence, the petitioner prayed to set aside the impugned order on the ground of bias and malafides.

3. The third respondent filed a detailed counter, stating that the impugned



order was only a show cause notice and therefore, the petitioner could not challenge the same.

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4. The learned counsel for the petitioner submitted that at the instigation of the 4th respondent who was a relative of the complainant, the 4th respondent as incharge officer issued the impugned order. The learned counsel therefore submitted that the impugned order was tainted by bias and malafides.

5. On the other hand, the learned Standing Counsel submitted that the impugned order was only a show cause notice issued to the petitioner to submit his explanation on the proposed punishment of “compulsory retirement” from service and so the writ petition was not maintainable.

6. Heard both sides and perused the materials available on record.

7. Though the petitioner has impleaded the fourth respondent in his individual capacity, the fourth respondent has neither appeared nor filed counter denying the petitioner's allegations of bias and malafides, and therefore, the allegation of the petitioner that the fourth respondent issued the impugned notice at the instigation of his relative and hence the same is tainted by bias and malafides are accepted. Even the respondents have not denied the factual allegations that the fourth respondent was related to the complainant and at his instigation the impugned order was passed.



and circumstances of the case, I am of the view that the impugned order passed by

the fifth respondent in Memo

Memo.Ku.AA.No.018432/307/Ni.Pi.1(3)/Ko.O.Na/2014-8 dated 09.06.2016

deserves to be set aside and the same is set aside.

8. The third respondent is directed to issue a fresh show cause notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order. The petitioner shall submit his explanation within a period of two weeks thereafter. On receipt of the said explanation the third respondent shall pass orders on merits and in accordance with law, within a period of four weeks thereafter. The entire exercise shall be completed within a period of eight weeks.

9. The writ petition is allowed with the above direction. No cost. Consequently, connected miscellaneous petition is also closed.

13.09.2024

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Index : Yes /No

Speaking Order : Yes/No



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N. MALA, J.

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