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W.P.No.40223 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.40223 of 2015

and

M.P.No.1 of 2015

S.Rajesh

... Petitioner

Vs.

1.The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet,
Thiruppur District.

2.The Executive Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation,
Office of Executive Engineer,
Angalankurichi,
Thiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records with respect of the impugned order dated 21.09.2015 in Ku.Aa.No.030975/710/NiP3/Udavi(5)/2015 passed by the 1st respondent and quash the same consequently direct the 1st respondent to entertain the appeal filed by the petitioner dated 05.08.2015 and dispose the same on merits within



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an appropriate time.

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For Petitioner : Mr.R.Nalliyappan

For Respondents : Mr.C.Ramkumar

ORDER

This Writ Petition has been filed challenging the Proceeding No.Ku.Aa.No.030975/NiP3/Udavi(5)/2015 dated 21.09.2015, whereby, the appeal filed by the petitioner against the order passed by the second respondent dated 25.11.2013 was rejected by the first respondent/Appellate Authority on the ground that the appeal was not presented within the time prescribed under the relevant rules.

2. This Court has carefully gone through the impugned order as well as copy of the appeal dated 05.08.2015 filed by the petitioner before the first respondent. From the perusal of the appeal dated 05.08.2015, it appears that the petitioner has made an attempt to explain the reasons for delay in filing the said appeal by mentioning that because of his family circumstances, he could not file an appeal within time.

3. Relevant rules dealing with the Appellate power conferred upon the



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first respondent namely Rule 13 of TNEB Employees Discipline and Appeal Regulations, in specific Proviso to Regulations 14(1) of the said Regulations do confer discretion, on the Appellate Authority to condone the delay in filing the appeal. But the first respondent while passing the impugned order has not considered as to whether the petitioner is able to explain the delay satisfactorily while filing the said appeal, but simply rejected the appeal on the ground that the same was filed beyond the period of one month prescribed under the relevant rules.

4. In view of the above, this Court is of the considered view that the first respondent ought to have considered the reasons putforth by the petitioner for delay in filing the appeal dated 05.08.2015, while passing the impugned order. In case, the first respondent came to the conclusion that the reasons furnished was not sufficient, then he could have passed an impugned order or rejecting the ground of the appeal.

5. Be that as it may, appeal is right conferred upon the delinquent employee who suffered with punishment in a departmental proceedings. If such remedy is availed by the petitioner though after prescribed time, in such



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circumstances, the first respondent instead of rejecting the appeal filed by the petitioner on the ground of limitation ought to have considered the same on merits, but the same is not the procedure to be adopted by the first respondent.

6. In response to the notice issued by the Court, the respondent has filed counter affidavit mostly dealing with the matter on merits of the charge and the findings that were recorded in the presence of enquiry. As the impugned order is not passed on merits by the respondent, the counter affidavit filed by the respondent is not relevant for consideration of this Writ Petition.

7. In the light of the above, this Court is of the considered view, this is a fit case to remit back to the first respondent. Accordingly, the impugned order is set aside and the matter is remitted back to the first respondent for considering the appeal dated 05.08.2015 filed by the petitioner afresh and pass appropriate orders thereto on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



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8. This Writ Petition stands disposed of. No costs. Consequently,

connected miscellaneous petition is also closed.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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To

1.The Superintending Engineer,
Udumalpet Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet,
Thiruppur District.

2.The Executive Engineer,
Tamil Nadu Electricity Generation and
Distribution Corporation,
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MUMMINENI SUDHEER KUMAR, J.

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