



W.P.No.10036 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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M.Pachiyappan

.. Petitioner

Vs.

1.The Chairman-cum-Managing Director,
TANGEDCO,
No.144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer,
Distribution, Chennai Region / North,
TANGEDCO,
No.144, Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer,
Chennai EDC / North,
TANGEDCO,
No.144, Anna Salai,
Chennai – 600 002.

4.The Superintending Engineer,
Chennai EDC / South – II,
TANGEDCO,
KK Nagar,
Chennai – 600 078.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned final order dated 17.11.2012 vide Memo. No. SE/CEDC/NORTH/Adm.I/A.4/F.DP/No.618/2012 passed by the 3rd respondent and modified by the 1st respondent vide (Per) CMD/TANGEDCO Proceedings No.70 dated 09.08.2023 and to quash the same as illegal, arbitrary and subsequently direct the 4th respondent to consider the representation dated 10.01.2024 for assessing the petitioner's promotion and other benefits.

For petitioner : Mr.M.Aravind Subramaniam
Senior Counsel
for Ms.Priyanka.S
For Respondents : Mr.David Sunder Singh
for TANGEDCO

ORDER

This writ petition has been filed challenging the impugned order dated 17.11.2012 passed by the 3rd respondent which was subsequently modified by the 1st respondent through proceedings dated 09.08.2023 and for a consequential direction to the 4th respondent to consider the representation dated 10.01.2024 made by the petitioner wherein the petitioner was seeking for promotion and other benefits.

2.The case of the petitioner is that he was working as an Assistant



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Engineer at Chennai EDC / North circle and he was instructed to complete the DT structure work in a particular place. On 13.11.2009, when the petitioner went to work site, he found that 150 metres length of a particular cable was missing. The missing cable was worth Rs.1,08,115.60. The petitioner lodged a complaint before the Police namely the Inspector of Police, Pulianthope Police Station, based on which an FIR came to be registered in Crime No.891 of 2009 on 13.11.2009 for the offence under Section 379 of IPC against unknown accused.

3.The department decided to proceed against the petitioner for dereliction of duty in the light of the missing cable and therefore charges were framed against the petitioner and explanation was sought for. The petitioner gave his explanation. Enquiry Officer was appointed and enquiry report was also submitted. Explanation of the petitioner was sought for and he gave his explanation for the report of the Enquiry Officer. Ultimately, the 3rd respondent through order dated 17.11.2012 held that the charges have been proved and punishment of stoppage of one increment without cumulative effect for a period of one year was



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imposed. In the mean time, the sum of Rs.1,08,115.60 was also recovered from the salary of the petitioner.

4.The petitioner aggrieved by the order passed by the 3rd respondent, filed an appeal before the 2nd respondent and the same was also rejected by the order dated 26.05.2015. In view of the same, the petitioner filed a mercy petition before the 1st respondent on 21.08.2015. The mercy petition was rejected by an order dated 09.08.2023. But however, the punishment was modified as censure. Aggrieved by the same, the present writ petition has been filed before this Court.

5.The respondents have filed counter affidavit. The respondents have taken a stand that the petitioner was in-charge of the cable and only due to the dereliction of duty on the part of the petitioner, it was lost. Therefore, just because the petitioner has lodged a complaint to the police, that by itself will not prevent the department from proceeding further against the petitioner for dereliction of duty. Sufficient opportunity was given to the petitioner during the departmental proceedings and considering the facts and circumstances of the case,



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initially a punishment of stoppage of increment without cumulative effect for one year was imposed and in the mercy petition, it has also been modified into a punishment of censure. The respondents have taken a stand that the punishment that has been imposed against the petitioner is proportionate to the charges levelled against the petitioner and the same does not require the interference of this Court. Accordingly, the respondents have sought for the dismissal of the writ petition.

6.Heard the learned Senior Counsel for the petitioner and the learned counsel for the respondents.

7.In the instant case, there is no dispute with regard to the fact that the petitioner in his capacity as the Assistant Engineer was in-charge of the work of completing the DT structure. The cable wire worth about Rs.1,08,115.60 went missing from the work site. The petitioner had immediately taken steps to lodge a police complaint and based on the same, an FIR came to be registered in Crime No.891 of 2009. Ultimately, the police were attempting to find out the culprit and also the stolen property. They were not able to succeed and therefore, they have filed a



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referred charge sheet on the ground that the property was undetected.

When the petitioner filed CrI.O.P.No.24242 of 2023 before this Court for a direction to the respondent police to file a final report in Crime No.891 of 2009, it was brought to the notice of this Court that referred charge sheet has been filed. Recording the same, CrI.O.P.No.24242 of 2023 was disposed of by an order dated 28.11.2023.

8.It is therefore evident from the above that it is not as if the petitioner has completely disowned his responsibility and did not take any steps to find out the missing cable. The petitioner has done his best, but however, the cable has gone missing and no one was able to be traced.

9.In so far as the revenue loss that was suffered by the department, they have also proceeded to recover the sum of Rs.1,08,115.60 from the salary of the petitioner. Therefore, to that extent, the revenue loss has also been set off.

10.Considering the overall facts and circumstances of the case, this



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Court is of the considered view that the petitioner should not be once again punished for the incident that had taken place on 13.11.2009 and his other prospects should not get affected. In view of the same, this Court is inclined to interfere with the punishment imposed against the petitioner and accordingly, the same is hereby set aside. Consequently, it is made clear that no more stigma will be attached to the petitioner.

11. In the result, this Writ Petition is allowed and as a consequence, the promotion and other benefits of the petitioner can be worked out in the manner known to law. No costs.

13.08.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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TANGEDCO, No.144, Anna Salai,
Chennai – 600 002.

N.ANAND VENKATESH, J.



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