



WEB COPY

W.P.No.12306 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.12306 of 2021 and
W.M.P.Nos.13087 & 13088 of 2021

C.Ragu

... Petitioner

Vs.

The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Dharmapuri 5.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent relating to the proceeding Ku.No.1840-1/Nir.3/Oo.1/Ko.O.Na/2021 dated 30.04.2021 and quash the same.

For Petitioner	: Mr.S.Balakrishnan for Mr.M.Ravi
For Respondent	: Mr.K.Rajkumar, Standing Counsel

ORDER

This Writ Petition has been filed for quashment of the proceedings of the respondent in Ku.No.1840-1/Nir.3/Oo.1/Ko.O.Na/2021 dated 30.04.2021.



2. Heard the learned counsel on either side and also perused the materials available on record.

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3. The learned counsel for the petitioner submitted that the petitioner was directly recruited as Technical Assistant in the year 1989 and thereafter, he was promoted as Junior Engineer Secondary Grade II on 11.09.1995 and later, promoted to the post of Junior Engineer Grade I on 26.11.2001. Thereafter, the petitioner was falsely implicated in a criminal case under DVAC Act and placed under suspension on 06.12.2008. He was continued under suspension for a period of 11 years in view of the pendency of the criminal trial and thereafter, the order of suspension was revoked and the petitioner re-joined the post of Junior Engineer. By an order dated 31.03.2021, the learned Special Judge/ Chief Judicial Magistrate, Dharmapuri, in Spl.C.C.No.04 of 2010 had passed an order of conviction against the petitioner and the 2nd accused. Against which, the petitioner and the 2nd accused had preferred a Criminal Appeal before this Court in CrI.A.No.213 of 2021 and the petitioner had also preferred a miscellaneous petition in CrI.M.P.No.5487 of 2021 for enlarging the petitioner by suspending the sentence imposed upon him in the said Criminal Appeal. This



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Court had also suspended the sentences and enlarged the petitioner on bail on usual conditions which were duly complied. This Court while deciding the Criminal Appeal had pre-judged the issue on the basis of conviction itself that he is liable for imposition of the specified penalty of dismissal from service out of the four major penalties as provided under the TNEB(D&A) Regulations. In this regard, the respondent had raised his findings on the basis of Board Memo No.057541/DP6/A1/9131 Admin.BR dated 16.09.1995 and proceedings initiated under Rule 8(c)(1) of TNEB D & A Regulations. As per the Rule 8(c)(1) of TNEB D & A Regulations, it would be clear that an order of imposition of penalty is not automatic and cannot be imposed directly on the basis of the conviction against the employee. On the other hand, it is duty bound on the part of the Appointing Authority/ Disciplinary Authority to apply his mind to the facts leading to such conviction to invoke 8(c)(1) of TNEB D&A Regulations. A copy of the impugned proceeding dated 30.04.2021 was only served on the petitioner on 19.05.2021. Though the petitioner had sought for extension of time for a period of 15 days on 23.05.2021, no order has been passed on the same. Hence, the petitioner filed the present petition seeking to quash the proceedings of the respondent dated 30.04.2021.



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4. The learned Standing Counsel appearing for the respondent submitted that as per Regulation 13 of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations, every person of the Board including a person, who is ceased to be in Board's service shall be entitled to appeal as herein after provided from an order passed by an authority imposing upon him any of the penalties specified in Regulation 5. Hence, the petitioner may file an appeal in accordance with law and seek remedy. In support of his contention, he also relied on the Regulations 14 to 16 of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations.

5. In view of the submissions made by the learned Standing Counsel and as per Regulations 13 to 16 of the Tamil Nadu Electricity Board Employees' Discipline and Appeal Regulations, this Court is of the view that the petitioner shall prefer an appeal before the Appellate Authority within a period of one month from the date of receipt of a copy of this order and the Appellate Authority is directed to consider the same and pass appropriate orders in accordance with law within a further period of three months thereafter.



W.P.No.12306 of

WEB COPY

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.09.2024

vk

Index : Yes / No

Speaking order / Non-speaking order

To

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Dharmapuri Electricity Distribution Circle,
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WEB COPY

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VIVEK KUMAR SINGH, J.

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