



W.P.Nos.19059 & 5060 of 2024
and 28925 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2024

CORAM

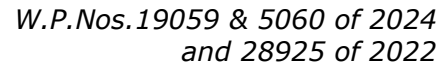
THE HON'BLE MR.JUSTICE G.K. ILANTHIRAIYAN.

W.P.Nos.19059 & 5060 of 2024 and 28925 of 2022

E.Irulappan .. Petitioner in all W.Ps

Vs.

1. The Chairman-cum-Managing Director
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai – 600 002.
2. The Secretary
Tamil Nadu Generation and Distribution Corporation Ltd.
No.144, 9th Floor, Anna Salai
Chennai – 600 002.
3. The Chief Engineer (Commercial)
Tamil Nadu Generation and
Distribution Corporation Ltd.
No.144, 2nd Floor, Anna Salai
Chennai – 600 002. .. Respondents
in W.P.No.19059 of 2024
1. Tamil Nadu Generation and Distribution Corporation Ltd.
Rep. by Chairman-cum-Managing Director
Chennai – 600 002.
2. The Secretary
Tamil Nadu Generation and
Distribution Corporation Ltd.
No.144, Anna Salai
Chennai – 600 002. .. Respondents in
W.P.No.28925 of 2022 &
W.P.No.5060 of 2024



Prayer in W.P.No.5060 of 2024: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records relating to the impugned charge memo issued by the first respondent in Memorandum No.33988/A5/A1/2022-10 dated 19.08.2023 and quash the same as illegal and arbitrary and consequently directing the respondents to allow the petitioner to retire from service and provide all pensionary and monetary benefits; and

For Petitioner Mr.Thalamutharasu
in all W.Ps : for Ms.C.Vijayalakshmi

COMMON ORDER

W.P.No.19059 of 2024 has been filed seeking for a direction against the third respondent to defer the departmental enquiry proceedings against the petitioner, pursuant to the summons issued by



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the third respondent. W.P.No.5060 of 2024 has been filed challenging the charge memorandum dated 19.08.2023, issued by the first respondent and W.P.No.28925 of 2022 has been filed challenging the order passed by the first respondent, thereby suspending the petitioner from service.

2.1. The petitioner was originally appointed as a Typist in the first respondent Board on 26.04.1984. Subsequently, he was promoted to the post of Assistant in the year 1997 and Superintendent in the year 2009. Thereafter, the petitioner was promoted to the post of Assistant Personnel Officer in the year 2012 and as Personnel Officer in the year 2015. Finally, the petitioner was promoted to the post of Senior Personnel Officer on 30.06.2017. On attainment of superannuation, the pensionary papers of the petitioner were forwarded for sanction of pension and other retirement benefits. He was due to retire on 31.08.2022.

2.2. At that juncture, the petitioner was served with the suspension order dated 30.08.2022 by the first respondent/The Chairman-cum-Managing Director (TANGEDCO), thereby suspending



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the petitioner from service. It is under challenge in W.P.No.28925 of 2022.

2.3. After a period of eleven months, the petitioner was served with the charge memorandum dated 19.08.2023, consisting two charges, which are as follows:

"Charge-I

Th.E.Irulappan, while he was working as Senior Personnel Officer, Recruitment, Administrative Branch, had received his share amount of Rs.70,000/- (i.e. 50,000 + 20,000) from Th.G.Narayanamoorthy who has obtained the same as illegal gratification from Th.P.Jayakrishna and Th.C.Dhanasekaran for making transfer and postings. The act of the official is in violation of regulation 3(a) of the Tamil Nadu Electricity Board Employees' Conduct Regulations.

Charge-II

Th.E.Irulappan, while he was working as Senior Personnel Officer, Recruitment, Administrative Branch, had received illegal gratification for issuing transfer and posting from the certain officer/employees of TANGEDCO those who are approached him directly or by any other persons with a request to get transfer and posting order. The act of the official is in violation of regulation 3(a) of the Tamil Nadu Electricity Board Employees' Conduct Regulations."

The charge memorandum is under challenge in W.P.No.5060 of 2022.



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2.4. Pending the writ petitions, the petitioner was served with summons for disciplinary enquiry by the third respondent/The Chief Engineer (Commercial), TANGEDCO, which is under challenge in W.P.No.19059 of 2024.

3. The petitioner in all these three writ petitions are one and the same and the issue is also one and the same. Therefore, this Court is inclined to pass this common order.

4.1. *Mr.Thalamutharasu*, learned counsel appearing for the petitioner would submit that the charges itself are bald and vague and are not specific in nature. As per Charge-I, alleging that when the petitioner was working as Senior Personnel Officer, Recruitment, Administrative Branch, received a sum of Rs.70,000/- as his share from one *G.Narayanamoorthy*, who has obtained the same as illegal gratification from two other persons, namely, *P.Jayakrishna* and *C.Dhanasekaran* for their transfers and postings, just in violation of Regulation 3(a) of the Tamil Nadu Electricity Board Employees' Conduct Regulations. Charge-II is also connected with the first charge about the illegal act of accepting gratification.



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4.2. He further submits that during the petitioner's entire service, he had unblemished service record and was also awarded for his sincerity and work efficiency. Both the charges are based on the statement of the said *G.Narayanamoorthy*. He also brings to the notice of this Court about the statement of the said *G.Narayanamoorthy*, which would reveal that he received illegal gratification from two persons for their transfers and postings and gave the petitioner's share without mentioning the date or time.

4.3. Even as per *G.Narayanamoorthy's* statement, the transfers and postings were held in the year 2018. Whereas, the petitioner was served with the charge memo on 19.08.2023, which is after a period of five years. He further submits that the petitioner is no-way connected with transfers and postings of any employee under the Board. He has nothing to do with the administration work. The transfer authority is the Superintending Officer and only on the basis of the statement made by *G.Narayanamoorthy*, the petitioner was suspended and is subjected to disciplinary proceedings.



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4.4. In support of his contentions, learned counsel for the petitioner relied upon the judgments in the case of **Anant R Kulkarni vs. Y.P. Education Society & Ors.**¹, the case of **Government of Andhra Pradesh & Ors. vs. Venkata Rayadu**² and the case of **Government of Tamil Nadu vs. M.Subramani**³.

5.1. The second respondent in W.P.No.5060 of 2024 files a counter and submits that on discreet enquiry, it was found that the petitioner is the main beneficiary in the matters of transfers and postings and received illegal gratification through *G.Narayanamoorthy* by misusing his official position.

5.2. Further, the discreet enquiry reveals that the petitioner committed commission of forgery of the Minister's seal and signature and received illegal gratification to effect transfers. Therefore, the petitioner was suspended from service and was retained beyond the date of superannuation as per the Tamil Nadu Electricity Board Service Regulations.

1 2013 (6) SCC 515

2 AIR ONLINE 2006 SC 544

3 W.A.No.587 of 2008; dated 03.07.2008



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5.3. There are materials to frame charges against the petitioner and he also relied upon the statement of *G.Narayanamoorthy*, where he deposed that he shared the illegal gratification with the petitioner. In fact, the petitioner fully accepted the charges and submitted a detailed explanation. It shows that the petitioner fully understood the happenings and the date of the illegal gratification.

5.4. Therefore, the charges are not vague and specifically state about the receipt of illegal gratification from *G.Narayanamoorthy*. The charge memorandum cannot be quashed on the ground of vagueness. He further submits that the writ petition itself is premature and a mere charge memorandum does not give rise to any cause of action because it does not amount to an adverse order, which affects the rights of any party, unless the said charge memorandum has been issued by an Authority having no jurisdiction to do.

5.5. In support of his contentions, he also relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Union of India and Anr. vs. Kunisetty Satyanarayana***⁴.

⁴ (2006) 12 SCC 28



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6.1. A perusal of the charges would reveal that when the petitioner was working as a Senior Personnel Officer, Recruitment, Administration Branch, has received a sum of Rs.70,000/- from *G.Narayanamoorthy*, who had obtained the same as illegal gratification from *P.Jayakrishna* and *C.Dhanasekaran*. Except the statement of *G.Narayanamoorthy*, no other material is annexed along with the charge memorandum to substantiate the charges as against the petitioner.

6.2. A perusal of the statement of *G.Narayanamoorthy* would reveal that without even mentioning the date and time, it is mechanically deposed that *G.Narayanamoorthy* shared the illegal gratification, received from the two persons, with the petitioner and others. In pursuance to the said statement, the petitioner was suspended from service, that too at the verge of his superannuation. He was about to attain superannuation as on 31.08.2022.

6.3. It is true that the charge memorandum cannot be quashed and it is premature, but, on perusal of the charges, as *supra*, the same



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are bald and vague, because the charges on the petitioner are only based on the statement of *G.Narayanamoorthy* and without any other material evidences.

6.4. In this regard, the learned counsel for the petitioner relied upon the judgment of the Apex Court in the case of **Anant R Kulkarni** (*supra*), where the Apex Court referred to the case of **Surath Chandra Chakravarty vs. The State of West Bengal**⁵, where it is held that *"it is not permissible to hold an enquiry on vague charges, as the same do not give a clear picture to the delinquent to make out an effective defence as he will be unaware of the exact nature of the allegations against him, and what kind of defence he should put up for rebuttal thereof"*. The Apex Court also held that *"the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges"*.

6.5. The Disciplinary Authority should have stated in the charge memorandum on what date the petitioner had received illegal gratification from *G.Narayanamoorthy* and what for. The said

⁵ AIR 1971 SC 752



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G.Narayanamoorthy deposed that he shared the illegal gratification with the petitioner, but he did not even state that for what purpose the illegal gratification was shared with the petitioner. Therefore, when the charges are not specific, no finding of guilty can be fixed on the basis of the said charges.

6.6. However, there is no explanation for the delay in taking action as against the petitioner. As per the statement of *G.Narayanamoorthy*, the transfers and postings were held in the year 2018. Whereas, the petitioner was served with the impugned charge memorandum only on 19.08.2023. Though the petitioner was suspended from service on 30.08.2022, that too at the verge of his retirement, in pursuance to the said allegations, there is no police complaint to the jurisdictional police. If at all the petitioner forged the signature of the Minister, definitely, the respondents would have lodged a complaint as against the petitioner. That apart, forging of the Minister's signature does not arise in cases of transfers and postings. The Minister is an the authority for transfers or postings. Therefore, the entire charges itself are bald and vague and are based only on the statement of *G.Narayanamoorthy*.



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6.7. During the discreet enquiry, the petitioner was served with the charge memorandum. Admittedly, during the entire service of the petitioner, he was not served with a single memo, except the order of suspension dated 30.08.2022. In fact, the petitioner was asked to submit all particulars for sending a proposal for his pension and other benefits. Accordingly, the petitioner has submitted all particulars to the second respondent on 01.08.2022 and also there was a farewell function for the petitioner on 30.08.2022. Immediately after the farewell function, the petitioner was served with the order of suspension, thereby, retaining him in service beyond the date of his superannuation. There were totally seven delinquents, in which, two were permitted to retire from service, but for the reason best known to the respondents, the petitioner was suspended and was not permitted to retire from service.

7.1. In view of the above, the charge memorandum dated 19.08.2023 cannot be sustained for further enquiry and it is liable to be quashed. Accordingly, W.P.No.5060 of 2024 stands allowed.



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7.2. In view of the quashment of the charge memorandum dated 19.08.2023, nothing survives for further adjudication in W.P.Nos.19059 of 2024 and 28925 of 2022 and accordingly, both these writ petitions stand closed.

7.3. The first respondent is directed to permit the petitioner to retire from service from 31.08.2022 and disburse all his terminal benefits, pensionary benefits and other benefits, if any, along with the applicable interest within a period of twelve weeks from the date of receipt of a copy of this order.

7.4. There shall be no order as to costs. Consequently, W.M.P.Nos.20909 & 15883 of 2024 are closed.

26.07.2024

Neutral Citation : Yes/No

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G.K. ILANTHIRAIYAN, J.

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