



W.P. No.9404 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.9404 of 2017

and

W.M.P.No.10374 of 2017

Rajendra Prasad @ Prasad

... Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and
Distribution Corporation Ltd.,
Anna Salai, Chennai – 600 002.
- 2.The Superintending Engineer,
TANGEDCO,
Gobi Electricity Distribution Circle,
Gobichettipalayam – 638 452.
- 3.The Assistant Executive Engineer/West,
TANGEDCO, Kavatoor Road,
Gobi Electricity Distribution Circle,
Sathyamangalam – 638 402.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari and call for the entire records relating to Memo No.47/Adm.11/JA/F.DP/2017, dated 03.02.2017 passed by the 2nd respondent and quash the order of dismissal from service.



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For Petitioner : Mr.M.Mubarak Ahmad for
Ahmad Associates.
For Respondents : Mr.K.Rajkumar
Standing Counsel for TANGEDCO

ORDER

This writ petition has been filed seeking writ of certiorari, called for the records relating to the Memo No.47/Adm.11/JA/F.DP/2017, dated 03.02.2017 and quash the same. Through the impugned memo dated 03.02.2017, the 2nd respondent imposed punishment of dismissal from service on the petitioner, who was working as Junior Engineer Grade-I/ Electrical/110 KVSS/ Shenbagapudur/ Sathy Division of Gobi Electricity Distribution Circle, on the ground that he was convicted on criminal charges in the special CC No.01 of 2015 by the learned Assistant Sessions Judge, Ooty under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 by the judgment dated 30.11.2016.

2. The 2nd respondent on coming to know that the petitioner was convicted in the above said crime, issued a show cause notice dated 07.01.2017 requiring the petitioner to show, as to why the penalty of



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dismissal from service of the TANGEDCO specified in regulation 5 of the TamilNadu Electricity Board employee's (Discipline and Appeal) Regulations was imposed on him. In response to the same, the petitioner had submitted his explanation stating that sentence that was imposed on the petitioner through judgment dated 30.11.2017 was suspended by the learned Judge immediately after passing the order and also further stated that the petitioner had already filed appeal before this Court, in Criminal Appeal No.824 of 2016 and obtained interim order of suspension of sentence and also bail. The 2nd respondent claimed to have considered the explanation made by the petitioner, passed impugned order dismissing the petitioner from service. Aggrieved by the said order, the petitioner approached this Court by filing the present writ petition.

3. When the matter was taken up for consideration on earlier occasion i.e., on 17.04.2024, it was brought to the notice of this Court that the Cr.A.No.824 of 2016 filed by the petitioner before this Court was allowed by the learned Judge of this Court by judgment dated 15.12.2023.



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4. However, the learned counsel appearing for the respondents contended that the mere acquittal of the petitioner from the charge memo will not absolve him from the misconduct and the respondents are entitled to take appropriate disciplinary action against the petitioner. In support of his contention, he placed reliance on the decisions of the Hon'ble Apex Court in **2013 (1) SCC 598, 2019 (10) SCC 367 and 2022 (6) SCC 563**. He also further contended that in terms of G.O.(MS) No.66, Human Resources Management (N) Department, the respondents are having every right to conduct disciplinary proceeding against the petitioner, even after the petitioner was acquitted from criminal charges.

5. As noted above, the ground on which the petitioner was dismissed from service is only the conviction that was ordered in C.C.No.01/2015 by the learned Assistant Sessions Judge and there is no other reason that is mentioned in the impugned order for dismissing the petitioner from service. The ground on which the petitioner was dismissed from service is no more available by virtue of the judgment in Cr.A.No.825 of 2016 dated 15.12.2023. Hence, the very basis on which the impugned order came to be



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passed is no more available and therefore, the impugned order cannot be allowed to stand.

6. As already noted above, the only reason on which the petitioner was dismissed from service is the conviction that was ordered against the petitioner in C.C.No.01/2015 of the learned Assistant Sessions Judge, Ooty, by an order dated 30.11.2016. Whether the respondents are entitled to initiate disciplinary proceeding against the petitioner are not is not the subject matter or an issue that arises for consideration in this writ petition. It is only the validity of the impugned order that is required to be decided in the present writ petition. As the very basis on which the impugned order came to be passed is no more available, in the considered view of this Court, the impugned order cannot be sustained and accordingly, the impugned order dated 03.02.2017 is set aside and the respondents are directed to reinstate the petitioner into service with all consequential benefits as expeditiously as possible at any rate within a period of six (6) weeks from the date of receipt of a copy of this order.



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7. Accordingly, writ petition is allowed. The connected miscellaneous applications, if any shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

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