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W.P.(MD)No.9920 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2024

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.9920 of 2017

and

W.M.P.(MD)Nos.7602 & 7603 of 2017

L.Nagaraj

: Petitioner

Vs.

1.The Chief Engineer (Distribution),
TANGEDCO / Trichy Region,
Trichy.

2.The Executive Engineer,
C/o. The Executive Engineer / Administrator,
TANGEDCO, Musiri,
Trichy District.

3.The Superintending Engineer,
Tamil Nadu Electricity Board,
Trichy Metro Region,
Trichy.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records pertaining to Memo No.05275/381/Adm.B/B1/2016 dated 26.05.2016 and quash the same.



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For Petitioner : Mr.P.Muthusamy
For Respondents : Mr.B.Ramanathan
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned charge memo dated 26.05.2016 along with annexures which contains the charges framed against the petitioner in the disciplinary proceedings initiated against him by the respondents.

2.As seen from the charge memo, the respondents claim that the petitioner during 2003 had hidden the fact that he was working in TNEB and residing in TNEB quarters and obtained forged income and residence proof certificates as well as produced bogus community certificates for his two daughters for getting admission in colleges under reservation quota [SC / ST]. According to the respondents, the petitioner had committed grave misconduct and for the said reason, the aforementioned charges were framed.

3.The petitioner has challenged the impugned memo denying the charges framed against him in the disciplinary proceedings and he has also contended that since he had retired from service of the respondent long time back, there is a statutory



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bar as per “the Tamil Nadu Pension Rules, 1978” [hereinafter ‘the Rules’ for brevity] for the respondents to issue the charge memo against the petitioner.

4.A counter affidavit has also been filed by the first respondent denying the contentions of the petitioner and reiterating that the impugned charge memo dated 26.05.2016 was issued only in accordance with law on account of the production of forged and fabricated documents [certificates by the petitioner].

5.It is an admitted fact as seen from the impugned charge memo that the incident for which charges were framed against the petitioner happened in the year 2003. However, the charges were framed against the petitioner by the respondents in the disciplinary proceedings only on 26.05.2016 under the impugned charge memo after a lapse of more than 13 years from the date of the alleged incident. The petitioner had retired from service of the respondents as early as on 30.06.2014 itself. Rule 9(2)(a)(ii) of the Rules makes it clear that charges cannot be framed against a delinquent in respect of an incident which took place more than four years from the date of the alleged incident. Rule 9(2)(a)(ii) of the Rule reads as follows:



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“9.Right of [Competent Authority] to withhold or withdraw pension.-

9(2)(a). ...

(i). ...

(ii) shall not be in respect of any event which took place more than four years before such institution; and”

6.In the case on hand, the impugned memo which includes annexures containing the charge memo framed against the petitioner is dated 26.05.2016. As seen from the charge memo [Annexure – 2], the incident based on which the charge memo has been framed against the petitioner is said to have happened in the year 2003 which is beyond the period of four years from the date of the impugned memo and is in violation of Rule 9(2)(a)(ii) of the Rules which prescribes that any charge memo will have to be issued within four years from the date of the alleged incident. The petitioner has also retired from service. He retired on 30.06.2014. Since the impugned charge memo is in violation of the aforementioned Pension Rules, it is bad in law. Therefore, it has got to be quashed and the writ petition will have to be allowed. Accordingly, the impugned charge memo dated 26.05.2016 along with the annexures attached to it which are challenged in this writ petition is hereby quashed.



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7. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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ABDUL QUDDHOSE, J.

MR

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