



WP(MD)No.25874 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.25874 of 2022

and

WMP(MD)No.20004 and 20005 of 2022

N.Dhanasekaran

... Petitioner

Vs

- 1.The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Represented by its Chairman,
No.144, Annasalai,
Chennai – 2.
- 2.The Chief Engineer,
Office of the Chief Engineer,
Chennai – 2.
- 3.The Superintending Engineer,
Office of the Superintending Engineer,
The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Tirunelveli, Tirunelveli District.
- 4.The Executive Engineer,
The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO),
Papanasam Division, Servaler Power House,



WP(MD)No.25874 of 2022

Ambasamudran Taluk,
Tirunelveli District.

WEB COPY

5.The Additional Chief Engineer,
The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Maharajanagar, Tirunelveli,
Tirunelveli District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Ku.Aa.No.ST/224/NiBi.1/Ni.Vu.1/Ko.Kattu/21, dated 29.05.2021 and consequential impugned order passed by the 2nd respondent vide his consequential proceedings in Memo.No. 006528/1963/M18/M184/2021-1, dated 10.10.2022 and quash the same as illegal.

For Petitioner : Mr.Mohamed Imran
for M/s.Ajmal Associates
For Respondents : Mr.S.Arivalagan
Standing Counsel

ORDER

The petitioner an employee of the Tamil Nadu Electricity Board was issued with a charge memo on 19.12.2019 while he was working in the Office of the Assistant Engineer, Suruliyar as Senior



WP(MD)No.25874 of 2022

Foreman Grade III that he had received a sum of Rs.3 lakh each from one Aruna Devi and Santhiya with a promise to get them employment in respondent electricity board and departmental proceedings was initiated by appointing enquiry officer. Enquiry officer submitted his report on 17.08.2020 that the charges were proved. The enquiry report was furnished to the petitioner on 28.08.2020 to offer his reply. The petitioner had submitted his reply on 15.09.2020. Based on the enquiry report and the reply, the 3rd respondent had issued a show cause notice on 23.12.2020 to the petitioner for the proposed punishment of demotion of one step to the lower post. This show cause notice had been challenged by the writ petitioner in WP(MD)No.1125 of 2021, wherein this Court by order dated 25.01.2021 set aside the show cause notice and directed the respondents to reconsider the matter and pass a reasoned and speaking order. Based on the orders of this Court in WP(MD)No.1125 of 2021, dated 25.01.2021 a further show cause notice was issued to this petitioner on 08.02.2021. The petitioner offered his reply on 15.04.2021. Thereafter considering all the



WP(MD)No.25874 of 2022

materials, the 3rd respondent passed an order of punishment of demotion to one step lower post on 29.05.2021. Challenging the same petitioner has filed an appeal before the 2nd respondent/ the Chief Engineer, Chennai on 28.06.2021. The 2nd respondent has confirmed the order of the disciplinary authority by his order dated 10.10.2022. The order of the disciplinary authority and the order of the appellate authority is challenged in this writ petition.

2.The learned Counsel for the petitioner by pointing out that the enquiry officer examined the witnesses one Malaichamy and Chelladurai behind the petitioner's back and he was not present at the time of their examination. He was also not provided with an opportunity to cross examine them. The petitioner has also taken a specific plea that the appellate authority without considering the grounds raised by the petitioner in the appeal and without any discussion, has rejected the appeal.



WP(MD)No.25874 of 2022

3.The learned standing counsel appearing for the respondents by referring to the enquiry officer's report submits that the enquiry officer has examined the said Malaichamy, Aruna Devi and Chelladurai, the father of Santhiya from whom the petitioner has received money with an assurance that he would arrange a job in the electricity board. Apart from that the petitioner in a Rs.50 /- stamp paper has executed a document in this regard and it is also proved in the enquiry by examining the document writer one Saravanan, who has prepared the document. Therefore considering all the materials the disciplinary authority has passed the order of punishment.

4. He further submits that this petitioner in the year 2012 while was working at Electrical Section, Papanasam Power House had indulged in similar delinquency by receiving a sum of Rs.10 lakh from third parties. Departmental proceedings was initiated and after following due procedure, he was imposed with a punishment of demotion to the lower post of Field Assistant by order dated 30.12.2013. In the appeal filed by the petitioner, the punishment was



WP(MD)No.25874 of 2022

modified as demotion to one step lower post as Foreman Grade II grade by order dated 11.06.2014. The mercy petition filed by the petitioner was rejected by order dated 10.06.2019.

5.He further submits that the appellate authority by considering the materials and also the past conduct of the petitioner, has rejected the appeal and confirmed the order of punishment. The petitioner was suggested by the appellate authority to file a mercy petition but he has filed this writ petition without filing any mercy petition. Due procedure has been followed during the enquiry and the petitioner was provided with an opportunity at every stage and finally the orders have been passed. This petitioner himself has admitted that the entire enquiry procedure was conducted in a proper manner. Further two criminal cases have been registered for the delinquency committed by this petitioner in Crime Nos.219 of 2019 and 220 of 2019. Therefore, the grounds raised by the petitioner are not sustainable and there is no reason to interfere with the impugned orders.



WP(MD)No.25874 of 2022

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The order of punishment imposed by the respondents on the petitioner in conclusion of the departmental proceedings is challenged in this writ petition. As rightly pointed out by the learned counsel for the respondent electricity board, a perusal of the records shows due procedures have been followed; the petitioner has been provided with an opportunity by issuing a charge memo; the petitioner submitted his reply to the charge memo; the enquiry report has been furnished to him; he submitted his reply; vide 2nd show cause notice, he was provided with an opportunity to offer his explanation on the proposed punishment; the petitioner challenged the same before this Court and subsequently the petitioner has been issued with another show cause notice; this petitioner has submitted his reply; only thereafter, the disciplinary authority has passed the order of punishment; the petitioner filed an appeal; the appellate authority rejected the appeal by considering all the materials and



WP(MD)No.25874 of 2022

also considering the similar delinquencies committed by the petitioner in the past and the punishment imposed on him thereon; the appellate authority in his order dated 10.10.2022 has informed the petitioner that he can file a mercy petition within a stipulated period before the 1st respondent. Therefore, the grounds raised by the petitioner is not acceptable.

8.As claimed by the learned Counsel for the respondents there is no statutory remedy of filing a mercy petition in the statute, but, the appellate authority provided an opportunity to file a mercy petition. However the petitioner without invoking the remedy to file a mercy petition has filed this writ petition.

9.It is also reported before this Court two criminal cases have been registered as against his petitioner for the delinquency committed by this petitioner in Crime Nos.219 of 2019 and 220 of 2019. It is reported that the charge sheet has already been laid. Pendency of the criminal case cannot be a ground to proceed with



WP(MD)No.25874 of 2022

the departmental proceedings. But at the same time, this court also noticed that the criminal case, which was registered in the year 2019 is still pending without any progress. It is the responsibility of the department also to follow up the criminal case which has been registered for the delinquency committed by an employee of the department.

10. In view of the above discussion, this writ petition is dismissed with liberty to the petitioner to file a mercy petition before the 1st respondent within a period of four weeks from the date of receipt of copy of this order.

28.11.2024

Internet : Yes / No

DSK



WP(MD)No.25874 of 2022

To

WEB COPY

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Annasalai,
Chennai – 2.
2. The Chief Engineer,
Office of the Chief Engineer,
Chennai – 2.
3. The Superintending Engineer,
Office of the Superintending Engineer,
The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tirunelveli, Tirunelveli District.
4. The Executive Engineer,
The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Papanasam Division, Servaler Power House,
Ambasamudran Taluk,
Tirunelveli District.
5. The Additional Chief Engineer,
The Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Maharajanagar, Tirunelveli,
Tirunelveli District.



WEB COPY



WP(MD)No.25874 of 2022

B.PUGALENDHI.J.,

DSK

WP(MD)No.25874 of 2022

28.11.2024