



W.P.(MD).No.24549 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.24549 of 2023
and W.M.P.(MD) Nos.20730, 20733 of 2023 & 671 of 2024

H.Mohamed Jibril John

... Petitioner

Vs

1. The Superintending Engineer,
Thanjavur Electricity Distribution Circle
TANGEDCO, Thanjavur,
No.1, Vallam Road,
Thanjavur.

2. M.Manivannan

3. The Assistant Engineer (O And M),
West Urban Thanjavur E.B.Colony,
Nanjikottai, Thanjavur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the Executive Engineer in charge Memo Ku.AA.En390/Se.Po/E.Para/Nagari/Thanj/Vu Ni A/Nimay/Ko.o. Na/2022 Naal 20.09.2023 and quash the same.

For Petitioner : Mr. N.Sundaresan
For Respondents : Ms.M.Parameswari (R1, R3)
Standing Counsel



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ORDER

The present writ petition has been filed challenging the impugned charge Memo Ku.AA.En390/Se.Po/E.Para/Nagari/Thanj/ Vu Ni A/Nimay/Ko.o. Na/2022 Naal 20.09.2023 and quash the same.

2.Heard, the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents. Perused the materials on record.

3.(i).The petitioner joined the service with erstwhile Tamil Nadu Electricity Board as Helper Trainee on 20.03.2009. After several promotions, presently he is holding the post of Commercial Inspector. In the meanwhile, he had completed Diploma in Electrical and Electronics Engineering (DEEE) during the year 2012, with the permission of the Board, as part-time course. Due to want of clarification with regard to recognition and approval of diploma awarded by Periyar Maniammai University, his promotion to the next level of post was kept pending.

(ii)It is clarified in G.O.Ms.No.151, dated 04.05.2023, Higher Education Department that the Dipolomas awarded by Periyar Maniammai



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University are equivalent to the diplomas for the purpose of employment in public services. Accordingly, the petitioner expected his promotion as Foreman and Junior Engineer Electrical Grade II in the ensuing vacancy.

(iii).In the meanwhile, the Superintending Engineer / Thanjavur Electricity Distribution Circle/Thanjavur in his proceedings, dated 09.08.2023 had issued a list of seniority for the purpose of promotion by keeping the crucial date as 01.08.2023 and the petitioner's name stood in S.No.21 in the said list. In these circumstances, the second respondent has issued a show-cause notice, dated 30.06.2023 and the same was duly replied by the petitioner. However, rejecting the explanation of the petitioner, a charge memo, dated 20.09.2023 came to be issued.

4.Vide impugned order, the petitioner was charged with two charges. The first charge is with respect to the matter, in which, the petitioner without receiving the double deposit, indemnity bond, no-objection certificate from the Pollution Control Board, gave 3 phase service connection to one Gnanavel, for the building, with respect to which several civil suits are pending. The second charge is for having not received the double deposit, indemnity bond, no-objection certificate from the Pollution Control Board and



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without communicating the pendency of several civil disputes gave 3 phase electricity service connection to one Gnanavel, thereby, violating the standing order under 30(x) of T.N.E.B Non Clerical Posts. Challenging the same, this writ petition came to be filed.

5.The learned counsel for the petitioner submitted that the petitioner has been victimised for no mistake on his part. The duties and responsibilities, which are assigned to the post of Commercial Inspector, ie., is a post held by the petitioner at the time of the alleged incident, as per TANGEDCO Proceedings No.8, dated 02.03.2018 are as follows:

“A. The duties and responsibilities which was assigned to the post of commercial Inspector (Petitioner) at the time of alleged incident as (per) FB TANGEDCO PROCEEDINGS No.8 (SB) Dated 02.03.2018 are as follows.

- 1. Preparation of estimates for all categories*
- 2. Maintaining court cases.*
- 3. RTI and other consumer related petitions*
- 4. All section office related returns*
- 5. Maintenance of related registers*
- 6. Accident reports.*
- 7. All reasonable work entrusted by section officer / FM to be carried out*
- 8. Maintaining LT album.”*



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6.The learned counsel for the petitioner further contended that without any basis, charge has been framed against him, since he has given III phase connection to one Gnanavel. The same was done through the Assistant Engineer only on the approval of the Executive Engineer (Operation and Maintenance) on 04.09.2021 itself. The petitioner has nothing to do with the same and he has been falsely implicated by the Department. From the perusal of the application, tracking status report of the said V.Gnanavel, it is evident that the registration for 3 phase service connection was made on 03.09.2021. That apart, on 04.09.2021 itself necessary charges has been paid by the online applicant and the application was verified by the Assistant Engineer (Operation and Maintenance) on the same day. On 06.09.2021, the site inspection was completed and estimation was prepared and sanctioned on the same day. On 07.09.2021, service connection was effected and consumer number was assigned and application has been closed. The Executive Engineer himself has directed the Assistant Engineer to allot 3 phase connection and giving the 3 phase meter on 04.09.2021 itself and sanctioned the connection on 06.09.2021. Therefore, the charges issued against him are baseless and the petitioner is in noway connected with the sanction of 3 phase service connection to one Gnanavel even according to the TANGEDCO Proceedings No.8, dated



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02.03.2018. He sought the interference of this Court with the impugned charge memo, dated 20.09.2023.

7.Per contra, the learned Standing Counsel appearing for the respondents filed a counter and submitted that though the petitioner has vehemently contended that under the head of duties and responsibilities assigned to the post of Commercial Inspector under Board Proceedings of TANGEDCO Proceedings No.8, dated 02.03.2018, he has nothing to do with the nature of allegation framed as against the petitioner in the alleged charge memo. The first head of charge in respect of preparation of estimates for all category will squarely cover the charges framed against the petitioner. At the first instance, the petitioner, has the power for preparing estimates for all categories for assigning service connection, including 3 phase service connection. Even in this case, the petitioner duly joined as Commercial Inspector as early as on 07.08.2021, immediately commenced his duty as Commercial Inspector and the matter pertaining to the charges was with respect to the sanction of 3 phase service connection to one Gnanavel without taking into consideration the pendency of civil disputes, that is, RLTOP No.14 of 2021 on the file of Civil Court, Thanjavur, O.S.No.20 of 2021 and 81 of 2021



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on the file of District Munsif Court, Thanjavur. The petitioner ought to have duly recorded the fact that three civil suits were pending and the petitioner ought to have received the double deposit, indemnity bond, no-objection certificate from the Pollution Control Board. However, without doing any such exercise, he had prepared the estimate for the grant of 3 phase service connection to the said Gnanavel. In view of the same, he has violated the mandates under the standing order under 30(x) of T.N.E.B., Non-Clerical Posts. Hence, prayed for dismissal of the writ petition.

8.Considering the nature of the charges framed as against the petitioner and duly acknowledging that the duties as assigned to the Commercial Inspector under the head of preparation of estimates for all category as per TANGEDCO Proceedings No.8, dated 02.03.2018 would reveal that the impugned charge memo squarely cover the same, this Court is not inclined to interfere with the impugned charge memo.

9.The law does not permit quashing of charge memo in a routine manner. In case the delinquent employee has any grievance in respect of charge sheet, he must raise the issue by filing a representation and wait for the



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decision of the disciplinary authority. Neither the disciplinary proceedings nor the charge memo shall be quashed at an initial stage, as such an attempt would be a premature initiative. That apart, issuance of charge memo does not amount to an adverse order, which affects the right of the delinquent employee, unless the same has been issued by a person having no jurisdiction to do so.

10. In view of the said discussion, this writ petition stands dismissed. The petitioner is directed to co-operate with the Department for the early conclusion of the departmental enquiry and disciplinary proceedings pending against him. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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PNM

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