



W.P.(MD)No.17154 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.17154 of 2017
and
W.M.P.(MD).No.13729 of 2017

K.Gopal

... Petitioner

Vs.

The Superintending Engineer,
Theni Electricity Distribution Circle,
(TANGEDCO),
Theni-625 531.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order of the respondent in Ku.AA.No. 1008/477/MePo/Theni/Ni.A/NiPi1/NiVu3/Ko.Marai/2008-1, dated 08.05.2017 and quash the same.

For Petitioner : Mr.K.Appadurai

For Respondent : Mr.B.Ramanathan,
Standing Counsel



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ORDER

WEB COPY This Writ Petition has been filed challenging the order, dated 08.05.2017, passed by the respondent, imposing the punishment of rejection of the petitioner's pay to the minimum scale of pay of the post held by him on the date of imposing the punishment for a period of three years with cumulative effect.

2. According to the petitioner, the impugned order is contrary to the directions given by the learned Single Judge of this Court in the Writ Petition filed by the petitioner in W.P.(MD).No.10628 of 2008. As in the said order dated 28.06.2016, wherein, the petitioner had challenged the impugned show cause notice, indicating the proposed punishment and the learned Single Judge while quashing the impugned show cause notice insofar as the proposed punishment is concerned, the respondent was directed to pass an order imposing the punishment of withholding of increment for a period of three years without cumulative effect. Admittedly, the aforementioned order, dated 28.06.2016, passed in W.P.(MD).No.10628 of 2008, was not challenged by the respondent therein and therefore, the said order had attained its finality. However, as seen from the impugned order, dated 08.05.2017, passed by the respondent, is contrary to the directions issued in W.P.(MD).No.10628 of 2008 on 28.06.2016 and the respondent has now imposed a higher punishment on the petitioner, viz.,



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“Reduction of pay to the minimum of the scale of pay of the post held by him on the date of imposing the punishment for a period of three years with cumulative effect”. However, it was made clear in the order, dated 28.08.2016 in W.P. (MD).No.10628 of 2008, which has also attained its finality that the respondent was directed to pass an order imposing the punishment of withholding of increment for a period of three years without cumulative effect only.

3. Learned Standing Counsel appearing for the respondent would submit that only based on the Board proceedings of the respondent, dated 07.11.2002, the impugned punishment was imposed on the petitioner, which is consequent to the earlier directions issued by this Court.

4. However, when it is clear that the order dated 28.06.2016, passed in W.P.(MD).No.10628 of 2008 has now attained its finality, necessarily, the respondent is bound by the said order and cannot rely upon the Board proceedings dated 07.11.2002 and therefore, cannot impose higher punishment instead of the one that has been directed to be imposed by the order of this Court, dated 28.06.2016 in W.P.(MD).No.10628 of 2008.

5. For the foregoing reasons, the impugned order dated 08.05.2017,



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passed by the respondent, is hereby quashed and the Writ Petition is allowed by modifying the punishment in accordance with the order dated 28.06.2016, passed in W.P.(MD).No.10628 of 2008 by imposing a punishment on the petitioner to one of withholding of increment for a period of three years without cumulative effect. The petitioner is permitted to submit a representation to the respondent in accordance with this order for the purpose of getting any monetary benefits / notional promotion and in-turn, the respondent is directed to consider the same on merits and in accordance with law once the same is submitted. No costs. Consequently, the connected miscellaneous petition is closed.

09.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG

To

The Superintending Engineer,
Theni Electricity Distribution Circle,
(TANGEDCO),
Theni-625 531.

ABDUL QUDDHOSE, J.



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