



W.P.No.10142 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM:

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

W.P.No.10142 of 2011
and
M.P.Nos.1 and 2 of 2011

Judgment reserved on 07.02.2025	Judgment pronounced on 10.03.2025
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X.Francis Raja

...Petitioner

.....Vs.....

1. The Chief General Manager,
Office of the Chief General Manager Mine-1,
Neyveli Lignite Corporation Ltd.,
Neyveli.
2. The Chief Manager / Operation / Mine 1A,
Block - 26, Mines office,
Neyveli Lignite Corporation Ltd,
Neyveli.
3. The Additional Chief Manager / Mine / I&IA,
Middle Bench Mine - 1A,
Neyveli Lignite Corporation Limited,
Neyveli.

.....Respondents



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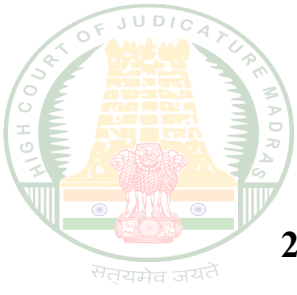
Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the respondents resulting in the 3rd respondent's impugned order dated 27.02.2010 passed in Memo.No.454/Mine/IA/P&A/DA/2009-2 and the subsequent final order of the very same respondent dated 25.05.2010 in proceedings No.454/Mine/IA/P&A/DA/2009-3 and confirmation order of the 2nd respondent by his proceedings dated 07.09.2010 Mine IA/CM/Opn./DA/454/2009-4 served on October 2010 and quash the same and directing the respondents to promote the petitioner as the Technician Grade-I w.ef.01.02.2009 and consequently pay all attendant, monetary and backwages etc.,

For Petitioner : Mr.V.R.Venkatesan

For Respondents : Mr.N.Nithianandam

ORDER

This Writ Petition has been filed to quash the provisional show cause notice in Memo No. 454/Mine IA/P&A/DA/2009-2, dated 27.02.2010. The final order of punishment, imposing a "stoppage of the next increment without cumulative effect" by the disciplinary authority, has been confirmed by the Appellate Authority. The petitioner also seeks a direction to promote him to the position of "Technician Grade I" with effect from 01.02.2009.



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2. The petitioner's grievance is that he is a workman governed by the

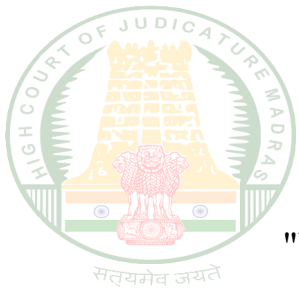
Certified Standing Orders of the Corporation. The Charge Memo dated 31.07.2009 was also issued under the Certified Standing Orders of the Corporation.

3. While working as a "Senior Technician Grade-II/AMB/Mine IA," the petitioner was issued a Charge Memo dated 31.07.2009, containing the following charges:-

(i) That on 24.07.2009, during the 1st shift, X. Francis Raja (CPF No. 36523), Senior Technician Grade-II, shouted at his superior officer, Shri P. Venkatasubramani, Senior Executive Engineer (Electrical), using indecent language when his request for permission to leave and collect his incentive payment was refused.

(ii) X. Francis Raja (CPF No. 36523), Technician Grade-II, scolded and threatened his superior officer, Shri P. Venkatasubramani, Senior Executive Engineer (Electrical), using indecent and unparliamentary language, such as...

"நீ மட்டும் தின்னுட்டு உட்கார்ந்திட்டு இருக்க.
எங்களுக்கு ஏன்டா அரேஞ்ச் பண்ணலை. உன்னை
உதைக்கனறும்."



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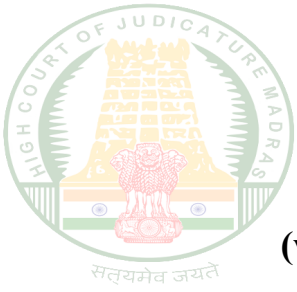
"While he was busy arranging food supplies from another area upon learning about a shortage in the canteen."

4(i). According to the respondent, the above-mentioned acts constituted misconduct under Standing Order 46(x), (xxxv), (xxxviii), and (xxxix) of the Corporation.

(ii) Pursuant to the Charge Memo, the petitioner submitted his explanation dated 05.08.2009, wherein he admitted the incident but denied that it constituted misconduct. As a result, the Disciplinary Authority ordered a domestic inquiry and appointed Mr. R. Rathinar as the Enquiry Officer to investigate the charges.

(iii) The Corporation examined two witnesses in support of the charges, while the petitioner examined one witness.

(iv) At no point did the petitioner object to the examination of the Corporation's witnesses. He also did not raise any complaints against them during the inquiry. Furthermore, he did not object to or challenge the manner and procedure followed in the inquiry. The competence of the Corporation's witnesses was not questioned at any stage of the proceedings.



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(v) On 21.11.2009, the petitioner himself informed the Enquiry Officer that he had no further witnesses and expressed his intention to compromise the issue.

(vi) After considering the materials and evidence on record in detail, the Enquiry Officer found that the charges against the petitioner had been proved. Accordingly, he submitted his report dated 05.12.2009 to the Disciplinary Authority.

(vii) Upon receiving the Enquiry Report, the Disciplinary Authority reviewed the materials on record and concurred with the findings of the Enquiry Officer. Consequently, the Disciplinary Authority issued a Provisional Show Cause Notice dated 27.02.2010, enclosing the Enquiry Report and calling upon the petitioner to show cause as to why the punishment of "Stoppage of next increment without cumulative effect" should not be imposed.

(viii) The petitioner submitted his explanation dated 15.03.2010, in which, for the first time, he raised allegations against the Corporation's witnesses, particularly MW2.



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WEB COPY (ix) After considering the entire record, including the Enquiry Officer's report and the petitioner's explanation, the Disciplinary Authority passed a final order on 25.05.2010, imposing a minor punishment of "Stoppage of next increment without cumulative effect." The incident demonstrated blatant insubordination and occurred during office hours in the workplace.

(x) The petitioner filed an appeal dated 27.06.2010 before the Appellate Authority.

(xi) By a reasoned order dated 07.09.2010, the Appellate Authority rejected the petitioner's appeal. Hence, the present writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents-NLC.

6. The learned counsel appearing for the respondents-NLC has filed a counter affidavit.



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7. This Court directed the respondents to file the minutes enquiry proceedings conducted against the petitioner and enquiry report, which have been submitted as a typed set of papers. Copies have been furnished to the learned counsel for the petitioner.

8. After hearing the rival submissions made by the respective parties, reviewing the typed set of papers, and considering the charges framed against the petitioner, I find that the charges are clear regarding the date, the alleged act of the petitioner against his superior officer, and the words spoken to him.

9(a). In his explanation dated 05.08.2009, the petitioner admitted to the incident but denied that it does not amount to misconduct under the standing orders of the Corporation. Consequently, an enquiry was ordered, conducted, and concluded, and the enquiry report dated 05.12.2009 was submitted to the disciplinary authority.

(b) The findings of the disciplinary authority were served upon the



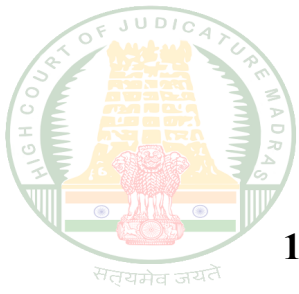
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petitioner, and a second show-cause notice was also issued. As the petitioner's explanation was found unsatisfactory, the disciplinary authority imposed the punishment of "stoppage of one increment without cumulative effect."

(c) Challenging this punishment, the petitioner filed the writ petition on the ground that M.W.2 was prejudiced against him, and therefore, his evidence should be disregarded.

10. As stated above, in compliance with the Court's direction, the minutes of the enquiry proceedings against the petitioner have been submitted.

11. Upon perusal of the records, I find that no such allegations were raised at the time of recording M.W.2's evidence, which is significant. There was no cross-examination, nor did the petitioner request to present any oral or documentary evidence. Hence, I find that this claim is merely an afterthought.



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12. After perusing the enquiry proceedings, I find that the petitioner did not raise any complaint during the enquiry. Although, in his affidavit, he claims to have objected to the examination of M.W.2, Mr. Sekar, no such objection was recorded at the time of the enquiry, which is significant.

13. The petitioner was granted sufficient opportunity, including three adjournments, to produce further evidence. However, he stated that he had no additional evidence and expressed a willingness to compromise the issue.

14. Upon reviewing M.W.2's deposition, it is evident that the petitioner had every opportunity to cross-examine the witness during the enquiry, yet he failed to do so. Therefore, I find that the writ petition is misconceived.

15. The claim of the petitioner that M.W.2 should not have been examined is an afterthought, seemingly invented for the purpose of filing the writ petition. The petitioner was given ample opportunity to cross-examine the witness or raise objections during the enquiry but failed to do so. Even during the appellate proceedings, the same objection was considered and



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rejected by the Appellate Authority. Therefore, I find no reason to interfere with the minor punishment imposed. Although the proven charges warranted a major punishment, since the respondents-NLC decided to impose only a minor punishment, I see no justification to interfere with the decision.

16. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

10.03.2025

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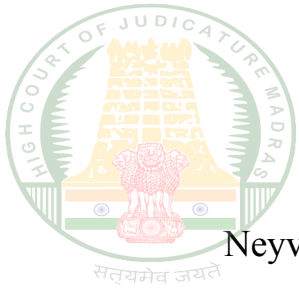
Index : Yes / No

Neutral Citation : Yes/No

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Middle Bench Mine - 1A,
Neyveli Lignite Corporation Limited,

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Neyveli.

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RMT.TEEKAA RAMAN, J.

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