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W.P.No.21853 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2025

CORAM

THE HONOURABLE Mr. JUSTICE K.SURENDER

W.P.No.21853 of 2013
and M.P.No.1 of 2013

M.Palanisamy

... Petitioner

Vs

1.The Chairman cum Managing Director
TANGEDCO
NPKRR Maligai
No.144, Anna Salai
Madras – 600 002.

2.The Superintending Engineer
TANGEDCO
Udumalapet
Tiruppur District.

3.The Executive Engineer
Operations & Maintenance
TANGEDCO
Angalakurichi
Coimbatore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the proceedings of the third respondent in Memo No.082/EE/O&M/



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AKY/Adm/A2/FD&A/2008 dated 11.08.2008 which is confirmed in appeal by the second respondent in his proceedings in Memo No.002063/21/Adm.IV/A.2/F.D.P.Appeal/2009/dated 13.03.2009 which is further confirmed mercy petition by the 1st respondent in his proceedings in (Per) B.P.(CMD/TANGEDCO) Pro.No.101 dated 09.10.2012 and the consequential order passed by the second respondent in his proceedings in Memo No.03445/392/Adm.III/A.5/2013 dated 21.06.2013 and quash the same as illegal, incompetent and ultravires.

For Petitioner : Mr.Ma.Pa.Thangavel

For Respondents : Mr.C.Ramkumar
Standing Counsel for R1 to R3

ORDER

The writ petition has been filed for a writ of certiorari to quash the impugned order passed by the third respondent dated 11.08.2008, which was confirmed by the proceedings of the second respondent dated 13.03.2009 and the proceedings of the first respondent dated 09.10.2012, and also the consequential order passed by the second respondent in his proceedings in Memo No.03445/392/Adm.III/A.5/2013 dated 21.06.2013.

2. The brief facts of the case are that the petitioner while working as



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Executive Engineer in Kolarpatty, 870 kgs of aluminium ingots / conductors, required for electrification work was kept in a private person's residence, where the working was going on. On 17.03.2005, the said quantity of 870 kgs of aluminium ingots was subjected to theft by two accused. The petitioner lodged a complaint with the police and the same was registered under Section 379 IPC., in Crime No.79 of 2005. Two persons were arrested and out of the theft quantity of 870 kgs, only 510 kgs. were recovered on 27.06.2005 at their instance.

3. Three years thereafter, on 09.07.2008, a charge memo was issued by the third respondent, seeking explanation regarding theft of the aluminium ingots / conductors.

4. Though a detailed reply was given by the petitioner that he has nothing to do with the alleged theft and only during the course of work, the materials were kept in the private residence, the said explanation did not find favour with the authorities and ultimately, an order was passed by the third respondent on 11.10.2008, directing the petitioner to pay a sum of Rs.75,800/-, which is the value of unrecovered aluminium ingots.



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5. The petitioner then preferred an appeal before the second respondent / appellate authority and requested the appellate authority to show indulgence and set aside the findings of the third respondent. However, the second respondent held that the findings of the disciplinary authority / third respondent is in order and rejected the appeal by order dated 13.03.2009. As a last resort, the petitioner has filed a mercy petition before the first respondent. However, his mercy petition was also rejected by proceedings dated 09.10.2012, and the order of recovery was confirmed. The second respondent vide proceedings dated 21.06.2013, yet again directed the petitioner to pay a sum of Rs.75,800/-. Aggrieved by the findings and directions of the respondents, the petitioner is before this Court.

6. In the present writ petition, this Court by order dated 07.08.2013, has ordered interim stay and liberty was granted to the respondent to adjust the said amount of Rs.75,000/- from the retirement benefits, subject to the outcome of the writ petition.

7. The learned counsel appearing for the petitioner would submit that the

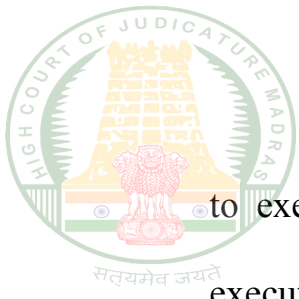


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petitioner has nothing to do with the theft and he was diligent in his duty as an engineer. The materials were placed in the premises of the residence of a private party at the place of work, which was subjected to theft and the petitioner had nothing to do with the theft. In fact, he lodged a complaint with the police, leading to arrest of two persons and thereafter, part of the material was recovered. The two persons who indulged in the theft, had infact murdered the wife of the petitioner for lodging a complaint, which is not disputed by the counsel for the respondents.

8. On the other hand, the counsel appearing for the respondents would submit that the materials which were given for the purpose of electrification or any other works, by the Department, in fact had to be placed in the godown and not at the place where the work was not going on. For the reason of placing the material in a private person's compound, the theft had occurred, as such the petitioner was responsible. The consequent enquiry and punishment which was imposed is proper.

9. As seen from the facts of the present case, admittedly the works were undertaken by the Department at an allotted place. The petitioner was deputed



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to execute the works. The material which are required for the purpose of executing the said work at the place allotted was nearly 870 kgs., of aluminum ingots. As argued by the counsel for the petitioner, the petitioner who was an engineer is not expected to shift 100's of kgs., of material everyday from the godown to the place where the work was going on. It is normal that the material would be placed when the work was under progress. However, to secure the material, the petitioner used a private premises. It is not the case of the respondents that the petitioner was in any way connected to the theft or had anything to do with the accused who had committed the theft. In fact, the persons who were involved in the theft, were caught after a complaint was lodged by the petitioner, and the consequence was that the wife of the petitioner was murdered.

10. It cannot be said in the facts of the case that the petitioner was negligent, resulting in the loss to the Department. As already discussed, the material which was meant for the works i.e., 870 kgs. of aluminum ingots cannot be transported every day from the Stores to the place where the work was being executed. It is practically impossible. The day on which the material is brought to the place of work and it was not used in the work, but



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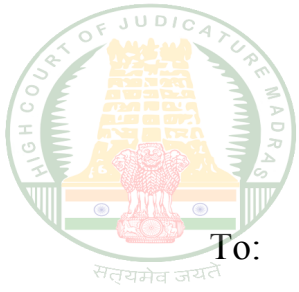
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kept in a private person's compound near the work place, it is natural and normal in the said circumstances. The respondents did not produce any rules or directions by the Department to show that the material meant for the work had to be shifted every day from the place of work to the department godown.

11. Since the petitioner was not responsible in any manner whatsoever leading to the alleged theft, the question of recovery of the cost of the material from the petitioner or any other punishment cannot be permitted. For the said reasons, the writ petition stands allowed and the amount that was recovered from the pensionary benefits of the petitioner shall be returned to the petitioner by the respondents, within a period of eight weeks from the date of receipt of a copy of the order. No costs. Consequently, connected miscellaneous petition is closed.

(K.SURENDER,J.)
22.09.2025

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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