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WP No. 24671 of 2014



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-09-2025

CORAM

THE HONOURABLE MR.JUSTICE K. SURENDER

**WP No. 24671 of 2014
and MP.Nos.1 &2 of 2014**

D.Ayyadurai,

Petitioner(s)

Vs

1. The Neyveli Lignite
Corporation Limited, Rep. by its
Director / HR., Neyveli-607801.

2.The Executive Director / Mines
2nd Appellate Authority, NLC Limited,
Neyveli-607803.

3.The Chief General Manager
/ Mine IA and Appellate Authority,
NLC Limited, Neyveli-607803.

4.The Chief General Manager /
Mine II and Expn. and Appellate
Authority, NLC Limited,
Neyveli-607802.

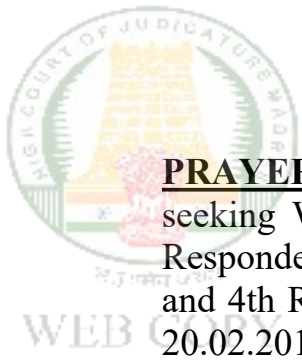
5.Shri. O.S.Gnanasekaran,

6.Shri. R.Mohan,

7.Shri. Sidheswar Murmu,

8.Shri. V.J.Madhan,

Respondent(s)



PRAYER: This Writ Petition is filed under Article 226 of Constitution of India seeking Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent in proceeding No. ED/Mines/Appeal-II/533/2013 dated 12.06.2014 and 4th Respondent in proceeding No. MINE-II/CGM/Appeal/ 533/2013 dated 20.02.2014 and quash the same and consequently direct the 1st Respondent to give promotion as Assistant Personnel Officer (SG-4 Grade) with effect from 01.07.2012 with all consequential benefits.

For Petitioner(s): M/s.Kandhan Duraisami

For Respondent(s): Mr.N.Nithianandan For R5 and
R6
Na - R1 To R4 , R7 And R8

ORDER

This Writ Petition is filed seeking quashment of the records of the 2nd Respondent in proceeding No. ED/Mines/Appeal-II/533/2013 dated 12.06.2014 and 4th Respondent in proceeding No. MINE-II/CGM/Appeal/ 533/2013 dated 20.02.2014 and for consequential direction to the 1st Respondent to give promotion as Assistant Personnel Officer (SG-4 Grade) with effect from 01.07.2012 with all consequential benefits.

2. Brief facts of the case are that the petitioner while working as Assistant Personal Officer (Grade 3) in the respondent corporation, the adverse entries against the petitioner were recorded in two ACR dated 21.05.2011 and 22.02.2013 by the Appraiser and the same were communicated to the petitioner by The Executive Director, Mines.



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3. In the ACR dated 21.05.2011, the following general remarks were made by the Appraiser:

“He always sit in his chair and keep two or three persons other than the office staff and always talking to them. He never gives a chance of pointing directly of his mistakes and he indirectly spoils the officer decorum.

Highly lethargic. Unfit to be a Personnel Officer”

4. Similarly in the ACR dated 22.02.2013, the following remarks were made:

“He does not accept his inability and kept work pending. Adequate.

Relationship with subordinates in very poor. Often he has criticized in filthy language. Adequate.

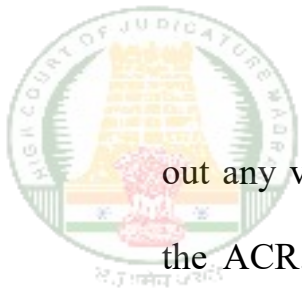
During this review period he has not taken single decisions and also not suggested to his team. Adequate.

He does not accept works during the crisis and always try to escape from his assigned work during emergency. Adequate.

Always he give negative ideas and special team work is relationship Adequate.”

5. Having informed the petitioner about the adverse remarks, he was also reminded that he could prefer an appeal against them.

6. The petitioner preferred an appeal, which was considered by the first appellate authority, who is the Chief General Manager, Mines, and disposed of the same on 20.02.2014. The first appellate Authority found that the appeal of the petitioner does not deserve any interference, since he has not made



out any valid ground to review the adverse remarks made by the Appraiser in the ACR. Thereafter, petitioner had preferred the Second Appeal before the Executive Director Mines. The authority found that the petitioner had not submitted his appeal with details of his achievements or contributions and had instead made unconnected comments on the performance of the other employees and superiors. For this reason, the appellate authority concluded that the petitioner's case lacked merit. The dismissal order was passed on 12.06.2014 by the Executive Director, Mines. Aggrieved by the dismissal of the appeal, the petitioner has filed this Writ Petition.

7. The learned counsel appearing for the petitioner would submit that firstly the adverse remarks were not informed within the time prescribed as per the rule of corporation. Further the orders of the first appellate authority and second appellate authority lacks clarity and reasons given are vague.

8. Per contra, the learned counsel for the respondents would submit that there is no scope to question the findings of the first and second appellate authority under Article 226 of Constitution of India. To substantiate his argument, the learned counsel relied on the judgment of Hon'ble Supreme Court of India in ***R.L. Butail vs. Union of India and Others*** reported in 1970(2) SCC 876, wherein it was held that:

“13. These rules abundantly show that a confidential report is



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intended to be a general assessment of work performed by a Government servant subordinate to the reporting authority, that such reports are maintained for the purpose of serving as data of comparative merit when questions of promotion, confirmation etc. arise. They also show that such reports are not ordinarily to contain specific incidents upon which assessments are made except in cases where as a result of any specific incident a censure or a warning is issued and when such warning is by an order to be kept in the personal file of the Government servant. In such a case the officer making the order has to give a reasonable opportunity to the Government servant to present his case. The contention therefore, that the adverse remarks did not contain specific instances and were, therefore, contrary to the rules, cannot be sustained. Equally unsustainable is the corollary that because, of that omission the appellant could not make an adequate representation and that therefore the confidential reports are vitiated.

14. Further, the rules do not provide for nor require an opportunity to be heard before any adverse entry is made. The contention that an enquiry would be necessary before an adverse entry is made suffers from a misapprehension that such an entry amounts to the penalty of censure set out in r. 11 of the Central Civil Services (Classification, Control and Appeal) Rules. The entry is made under the Office Order of 1961 set out above by way of an annual assessment of the work done by the Government servant and not by way of a penalty under the said Central Civil Services Rules. True it is that such remarks would be, taken into consideration when a question such as that of promotion arises and when comparative merits of persons eligible for promotion are considered. But then, whenever a Government servant aggrieved by an adverse entry he has an opportunity of making a representation. Such a representation would be considered by a higher authority, who, if satisfied, would either amend, correct or even expunge a wrong entry, so that it is not as if an aggrieved Government servant is without remedy. Making of an adverse entry is thus not equivalent to imposition of a penalty which would necessitate an enquiry or the giving of a reasonable opportunity of being heard to the concerned Government servant. This part of the appellant's grievance, therefore, has to be rejected."



9. The learned counsel also relied on the judgment of Hon'ble Supreme Court in **Government of West Bengal and others vs. Dr.Amal Satpathi and others**, reported 2024 SCC OnLine SC 3512, wherein it was held that:

“21. While we recognize respondent No.1’s right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself. The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation. Considering that respondent No. 1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity.”

and argued that after superannuation of the petitioner, the question of granting any promotion does not arise.

10. To decide the present Writ Petition, the following rules of the respondent corporation would be relevant.

“7.4 PERIOD OF REPORTING

The reporting period is 1st April to 31st March, of the next year in respect of Regular Employees. In respect of the employees borne on Labour Establishment, the reporting period is 1st January to 31st December of each year. In respect of such employees who continue to work in the Corporation on Foreign Service terms/ Deputation terms, original reports may be sent tot he respective lending



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authorities in such a Form as they may require (Keeping a copy in the Corporation's file). Separate reports covering the periods should also be written in the relevant Form prescribed in the Corporation. The reports on the employees borne on Labour Establishment should be written before 15th January and reviewed before 15th February each year. The reports on regular employees should be written before 15th April each year and reviewed before 15th May, each year.

7.8. UNIFORMITY IN THINKING & PROPER EVALUATION OF APPRAISAL:

The appraiser should be quite fair and reasonable while appraising on his subordinates and he should be able to substantiate his remarks by specific instances of the shortcomings referred to. Similarly the appraiser should ensure that the over appraisal tally with the assessment against the proceeding headings.

7.16 GENERAL INSTRUCTIONS:

7.16.1 The following important points should also be borne in mind while writing up of reports:

a) Reports should not be made with ball point pen or in carbon copies as they are likely to fade away. If the reports are type-written, that should be done by the reporting authority himself and a certificate to that effect should be added at the close of each such report.

b) In the case of unsatisfactory work, it is always advisable to keep on record and bring to the notice of the employee concerned either orally or in writing, instances of lapses or unsatisfactory work turned out, before adverse remarks are made in the Confidential Reports;

c) In the case of an employee transferred from one Unit to another unit, the reviewing authority should also record his remarks and forward the Confidential Reports to the C.Es/ Heads of Offices etc. of the Unit under whom the employee is transferred to work;

d) When a reporting officer is transferred/promoted in the mid-term of reporting, he



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should completely writ up the reports before actual relief and indicate the fact of having done so in the report of handing over charge and

e) Great care and emphasis shall be bestowed in objective assessment to bring out the strength and weakness of the individual reported on while writing the AAR/CR. (P&A/2396/AIII/84, Dt.1303.84)”

11. As seen from the above rules, the Appraiser has to give a fair and reasonable opportunity to his subordinates and must substantiate his remarks with specific instances. The remarks should be supported by specific instances of actions by an employee that violates the corporation's rules, which compelled the Appraiser to make such adverse remarks.

12. As seen from the general remarks made by the Appraiser, the petitioner was not performing his duties properly and had negative ideas while discharging his duties. As already stated, the rules require specific instances. The remarks made are general in nature. The Appraiser should have provided specific instances leading to such conclusions against the petitioner.

13. The absence of specific instances to substantiate the remarks means they cannot form the basis for punishing the petitioner. Since the Appraiser did not follow Corporation Rules Nos.7.4 and 7.8, which require specific instances, such general remarks cannot justify denying benefits to the petitioner. Although the first and second appellate authorities upheld the



Appraiser's remarks, they also failed to provide specific instances or reasons to substantiate the remarks.

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14. In view of the above discussions, the adverse remarks made in the petitioner's ACR deserves to be set aside due to lack of specific instances as mandated by the corporation's rules.

15. Accordingly, this Writ Petition is allowed. The proceeding No.ED/Mines/Appeal-II/533/2013 dated 12.06.2014 passed by the second respondent and the proceedings No.MINE-II/CGM/Appeal/533/2013 dated 20.02.2014 are hereby quashed. The first respondent is directed to promote the petitioner to Assistant Personnel Officer (SG-4 Grade) with effect from 01.07.2012 and provide all consequential benefits. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

24-09-2025

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



To

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