

W.A.No. 2385 of 2022
and
CMP.No. 18213 of 2022



S.S.SUNDAR, J.
AND
C.SARAVANA, J.

(Order of this Court was made by S.S.Sundar, J)

Today, this matter is listed under caption 'for being mentioned' at the instance of the learned counsel for the appellants.

2. As prayed for by the learned counsel for the appellants, the addresses mentioned in page numbers 7 & 8 of the order of this Court dated 20.02.2025 in W.A.No. 2385 of 2022 shall be deleted and a copy of this order shall be marked to the appellants in this appeal.

3. Registry is directed to make necessary corrections as mentioned above and issue a fresh copy of the order to the parties concerned. All other observations made in the said order dated 20.02.2025 in W.A.No. 2385 of 2022 shall remain unaltered.

(S.S.SUNDAR J.) (C.SARAVANAN J.)
05-03-2025

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S.S.SUNDA
AND
C.SARAVANA, J.

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W.A.No. 2385 of 2022
and
CMP.No. 18213 of 2022

05-03-2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS



DATED: 20.02.2025

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

and

THE NONOURABLE MR.JUSTICE **C.SARAVANAN**

W.A. No.2385 of 2022 and

C.M.P. No.18213 of 2022

1.The Secretary to Government
Rural Development and Panchayat Raj Department
Fort St. George
Chennai - 600 009

2.The Director of Rural Development &
Panchayatraj Department
Kuralagam, Chennai - 600 104
(Now at Panagal Maaligai, Saidapet) .. Appellants

Vs.

1.P.Jeyabalakrishnan
2.V.Ashok Vardhan Shetty

.. Respondents

* * *

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 30.03.2022 passed in W.P. No.26304 of 2008.

* * *



assisted by Mrs.V.Yamuna Devi
Special Government Pleader
For Respondents : Mr.S.Venkatesh for R1
R2 - No Appearance



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JUDGMENT

(delivered by S.S.SUNDAR, J.)

This appeal is directed against the order of the learned single Judge dated 30.03.2022 allowing the writ petition filed by the first respondent praying for quashing the impugned order of the first appellant dated 29.05.2008 by G.O. (Ms) No.83, Rural Development and Panchayat Raj (E1) Department dated 29.05.2008 and the consequential order dated 13.10.2015 and to reinstate the first respondent/writ petitioner in service as Joint Director of Rural Development with continuity of service etc.

2. Brief facts that are necessary for the disposal of this appeal, are as follows: The respondent/writ petitioner was the former Personal Assistant (Panchayat Development) to the District Collector, Coimbatore. While he was serving as a Project Officer, (P.I.U.), few charges were levelled against the respondent under Section 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules (hereinafter referred to as TNCS Rules) for certain irregularities. The two charges levelled against the first respondent are that while he was working as Personal Assistant (PD) to the District Collector, Coimbatore between



Assistant (TV), Pollachi Division to collect Rs.4,44,000/- at the rate of Rs.2

T.V.set for 222 T.V. Sets from one Thiru.S.Kolandaivelu of Arun Electronics, Erode, a

distributor of E.C. Television and that the first respondent accepted the commission

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amount of Rs.4,44,000/- from Thiru.G.Gopikrishna, Divisional Technical Assistant (TV),

Pollachi Division. Similar charges were also framed against Thiru.Gopikrishna, who

appears to have given a statement against the first respondent.

3. During the course of enquiry, statement of three witnesses including the said Gopikrishna were recorded by the Enquiry officer. It is to be noted that the said Gopikrishna, against whom the allegation of corruption is made, was allowed to retire by an order dated 25.01.1999, which was given effect to on 05.08.1999 on account of medical reasons. The Enquiry Officer, however, based on oral evidence, came to the conclusion that the charges levelled against the first respondent was proved.

4. It is seen that the Enquiry Officer relied on the oral evidence of Thiru.Gopikrishna against whom the allegation was made for collecting a sum of Rs.4,44,000/- as commission for the TV sets supplied by an individual. On the basis of the enquiry report, punishment was imposed against the first respondent. However, it is to be stated that the Enquiry Officer himself has only found that there are possibilities that

Thiru.G.Gopikrishna might have received money under instructions from the delinquent

officer, while holding that the first charge is proved. Since the enquiry itself was



completed based on the evidence of a co-employee and he was allowed to 1

service after initiation of disciplinary proceedings, the learned single Judge held that the

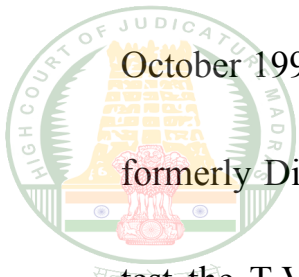
disciplinary proceedings are wholly unfair and that the finding of the Enquiry Officer are

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erroneous. The learned single Judge, thereafter referred to Rule 9(2)(b) of Tamil Nadu Pension Rules, 1978, and held that an Government employee during his employment cannot be departmentally proceeded after a period of four years from the date of alleged misconduct.

5. In this case, it is stated that the Rural Department had accorded sanction to initiate disciplinary proceedings against Gopikrishna together with the first respondent. While the appellants had chosen to proceed against the first respondent alone for enquiry and excluded Thiru.Gopikrishna from departmental proceedings, the learned single Judge held that the proceedings are vitiated. It is also to be noted that the learned single Judge further found that it is only Thiru.Gopikrishna who had physically received the money as commission for the TV units supplied by a private dealer. The learned single Judge has held that the enquiry is vitiated for several reasons and found that the order terminating the service of the first respondent is wholly illegal. Challenging the order allowing the writ petition, the above appeal is filed.

6. The admitted facts are that the alleged delinquency is during the period between

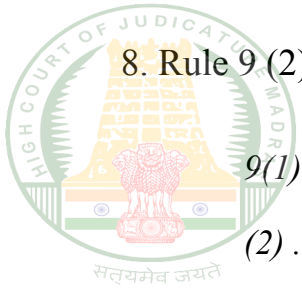


October 1994 and August 1995. The main allegation is against one Gopikrishna, formerly Divisional Technical Assistant (TV), Pollachi Division and has been deputed to

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test the T.V. sets supplied by a private dealer. The further allegation as seen from the report is that the said Gopikrishna alone had collected the commission amount of Rs.4,44,000/- at the rate of Rs.2,000/- per T.V. set for 222 T.V. sets from one Arun Electronics.

7. Despite the fact that the alleged misconduct was between October, 1994 and August, 1995, sanction was accorded four years after the alleged misconduct. Charges were framed only on 15.12.1999. It is to be noted that the charges against Gopikrishna were not proceeded and he was allowed to retire on 05.08.1999. This court is unable to justify the conduct of the appellants. Had the departmental proceedings been initiated against Gopikrishna, he may not have deposed admitting receipt of commission. It is admitted that the enquiry was proceeded only based on the statement of the said Gopikrishna, who was a co-employee who had admitted receipt of commission. In the absence of any other materials, except the statement of the said Gopikrishna, there must be some evidence to connect the first respondent. Even the Enquiry Officer has only observed in his report that there is possibility of first respondent's involvement in receiving the commission from the



8. Rule 9 (2) (b) of the Tamil Nadu Pension Rules, 1978 reads as follows:



9(1).....

(2)

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(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his re-employment -

(i) shall not be instituted save with the sanction of the Government;

(ii) shall not be in respect of any event which took place more than four years before such institution; and

(iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

9. Since the enquiry against the first respondent was also commenced after four years, this court is of the view that the whole proceedings is void and illegal. For all the reasons stated, we are unable to find any error or infirmity in the order of the learned single Judge allowing the writ petition and granting the relief to the the first respondent. Therefore, the writ appeal is devoid of merits and deserves to be dismissed.

10. Accordingly, the writ appeal is dismissed. However, there is no order as to costs.

Consequently, the connected civil miscellaneous petition is closed.



[S.S.S.R., J.] [C.S.N., J.] 20.02.2025

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Index : Yes/No

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S.S.SUNDAR, J.

and

C.SARAVANAN, J.

Asr

To:

1.The Director (Personnel)

Neyveli Lignite Corporation

Neyveli Township, Neyveli - 607 803

2.The Chief General Manager (Mine-I, IA)

Neyveli Lignite Corporation

Neyveli Township, Neyveli - 607 803

3.The Chief Manager (Civil) SMD/Mine-I

(Appellate Authority)

Neyveli Lignite Corporation

Neyveli Township, Neyveli - 607 803

4.The Chief Manager SMD/Mine-I

(Disciplinary Authority)

Neyveli Lignite Corporation

Neyveli Township, Neyveli - 607 803

W.A. No.2385 of 2022 and

C.M.P. No.18213 of 2022



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Dated : 2



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