



W.A(MD) Nos.649 of 2020 & 1439 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.08.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) Nos.649 of 2020 & 1439 of 2021
and
C.M.P.(MD)No.4056 of 2020

In W.P.(MD)No.649 of 2020

The Superintending Engineer,
Madurai Electrical Undertaking,
Acquisition Circle,
Tamil Nadu Electricity Board,
K.Pudur,
Madurai-7.

... Appellant / 2nd Respondent

Vs.

1.P.Mydeen

... 1st Respondent / Petitioner

2.The Management,
Madurai Corporation,
Anna Maligai,
Madurai.

... 2nd Respondent / 1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 08.01.2020 passed in W.P. (MD)No.12309 of 2014 and allow the writ appeal.



W.A(MD) Nos.649 of 2020 & 1439 of 2021

For Appellant : Mr.M.Ajmal Khan
Additional Advocate General
assisted by Mr.B.Ramanathan
Standing Counsel

For Respondents : Mr.K.Sudalaiyandi
for R1

In W.P.(MD)No.1439 of 2021

P.Mydeen ... Appellant / 1st Respondent

Vs.

1.The Superintending Engineer,
Madurai Electrical Undertaking
Acquisition Circle,
Tamil Nadu Electricity Board,
K.Pudur,
Madurai-7.

... 1st Respondent / Petitioner

2.The Management,
Madurai Corporation,
Anna Maaligai,
Madurai.

... 2nd Respondent / 2nd Respondent

3.The Presiding Officer,
Labour Court,
Madurai.

... 3rd Respondent / 3rd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order passed by the learned Single Judge in W.P.(MD)No.2264 of 2006, dated 24.02.2021.



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W.A(MD) Nos.649 of 2020 & 1439 of 2021

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.M.Ajmal Khan
Additional Advocate General
assisted by Mr.B.Ramanathan
Standing Counsel for R1

COMMON JUDGMENT

(Judgment of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. One Thiru.P.Mydeen / appellant in W.A.(MD)No.1439 of 2021 was serving the Madurai Corporation as Helper in the Electrical Wing. He was found to have quarreled with his colleagues in an inebriated condition during the work hours on 31.05.1994. He was also found to have been unauthorisedly absent for few weeks since 16.06.1994. In this regard, the charge memo was issued. Enquiry was conducted and eventually, he was removed from service by the Commissioner of Madurai Corporation vide order dated 27.12.1994. Mydeen raised an industrial dispute against the employer namely Madurai Corporation before the Conciliation Officer. In the meanwhile, the Electrical Wing



W.A(MD) Nos.649 of 2020 & 1439 of 2021

of Madurai Corporation was taken over by TNEB. Therefore, when the industrial dispute was taken on file by the Labour Court, Madurai, TNEB was the sole respondent in I.D.No.119 of 1995. The Labour Court passed an award dated 16.09.2004 holding that enquiry was conducted in a fair manner but the punishment was disproportionate. Invoking the power conferred under Section 11A of ID Act, the Labour Court set aside the termination order dated 27.12.1994 and directed the reinstatement of the employee with continuity of service and backwages. Challenging the Labour Court's award, the employer filed W.P.(MD)No.2264 of 2006. The writ petition suffered dismissal for default in the year 2011. Since it was not restored immediately, Mydeen called upon the employer to reinstate him. His request was rejected by the Superintending Engineer, Madurai, TNEB, K.Pudur, vide order dated 13.06.2014. Challenging the said order, Mydeen filed W.P.(MD)No.12309 of 2014. The said writ petition was allowed vide order dated 08.01.2020 in the following terms:-

“7. On combined reading of all the orders passed from the date of termination of the petitioner (27.12.1994) to the present impugned order dated 13.06.2014, it is crystal clear that there was an enormous delay in redressing the claim of petitioner, only by the



W.A(MD) Nos.649 of 2020 & 1439 of 2021

attitude of the respondent. It is unfortunate to state that even after retirement of the petitioner, his grievance is not redressed by the concerned authority. Literally, the petitioner was struggling for a long period of 26 years. Such an inaction/delay in action cannot be easily brushed aside by this Court. In view of the foregoing reasons, I am inclined to interfere with the impugned order passed by the second respondent.

8. Accordingly, the impugned order passed by the second respondent in his proceedings dated 13.06.2014 is hereby set aside. There shall be a direction to the second respondent to implement the order of the Labour Court with continuity of service and settle all monetary benefits and the retirement benefits, on attaining the age of superannuation on 30.04.2017, with interest at the rate of 12% per annum, along with any promotion which is due, if he had continued in service. Such exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.”

In the meanwhile, the writ petition filed by the management had suffered dismissal for default and it was restored and taken up for final disposal on 24.2.2021. Interestingly, the writ petition filed by the Management was allowed vide order dated 24.02.2021 and the award of the Labour Court was set aside in the following terms:-

“7. Now, the core issue before this Court is whether there was a master and servant relationship, at the relevant point of time, in between the petitioner and the first respondent. Admittedly, the first respondent worked as employee in the second respondent Corporation Electrical Wing. Thereafter, for his misdeeds, he was



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W.A(MD) Nos.649 of 2020 & 1439 of 2021

terminated from service on 27.12.1994 and the Labour Court has passed an award in favour of the first respondent employee, on 16.09.2004 and in between 1994 and 2004, the first respondent is not in employment. Further, vide G.O.(Ms).No.156, Energy Department, dated 10.06.1994, the electricity supply was handed over to the Government and in turn, the Government handed over to the Tamil Nadu Electricity Board. During that period, admittedly, the first respondent is not in employment in the second respondent Madurai Corporation. Hence, he is not entitled to exercise his option. Further, as per G.O.(Ms).No.106, Energy Department, dated 14.08.1996, the Government ordered the vesting of Madurai Corporation Electrical Undertaking with effect from 30.04.1995 and thereafter, it was vested over to the Tamil Nadu Electricity Board. On the date of vesting, the second respondent is not in employment. Hence, without considering the above said G.Os. and vesting, the Labour Court mechanically passed the award, directing the petitioner to reinstate the first respondent into service with all back wages. Therefore, this Court is inclined to set aside the order of the Labour Court. Accordingly, the order of the Labour Court, dated 16.09.2004, is set aside and the Writ Petition is allowed. However, this order will not stand on the way of the first respondent to work out the remedy, in the manner known to law.”

Challenging the order made in the writ petition filed by the Management, an employee filed W.A.(MD)No.1439 of 2021. Challenging the order made in the writ petition filed by the employee, TANGEDCO has filed W.A.(MD)No.649 of 2020.



W.A(MD) Nos.649 of 2020 & 1439 of 2021

WEB COPY

3. It is admitted that pursuant to the direction given by the learned single Judge, the backwages had already been paid to the employee. He was also paid last drawn wages under Section 17(B) of the ID Act. Even though the employee had reached the age of superannuation in the year 2013 itself, the last drawn wages appears to have been paid till last month.

4. The first issue that calls for consideration is whether the learned single Judge was justified in quashing the award of the Labour Court on the ground that there was no employer-employee relationship.

5. It is seen that quite a few interim orders were issued enabling to facilitate the process of taking over the electrical wing of Madurai Corporation by TNEB. It is seen that TNEB had taken over all the assets and liabilities (vide G.O.Ms.No.106, dated 14.08.1996).

6. We therefore conclude that an employee working in the electrical wing and who was terminated was entitled to raise an industrial



W.A(MD) Nos.649 of 2020 & 1439 of 2021

dispute against the TANGEDCO. We therefore have no hesitation to set aside the order dated 24.02.2021 allowing W.P.(MD)No.2264 of 2006.

W.A.(MD)No.1439 of 2021 is allowed. But that is not end of the matter.

7. The Labour Court in its award had rendered a definite finding that domestic enquiry conducted by the employer conformed to the principles of natural justice.

8. Having come to such a conclusion and while invoking Section 11(A) of the ID Act, the Labour Court ought to have modified the punishment accordingly. It did not do so. Instead, it set aside the termination order and directed the reinstatement of the employee with backwages and continuity of service. This was clearly improper.

9. The charges levelled against the employee were rather serious. He is said to have quarreled with his colleagues in an inebriated condition. He had also been unauthorisedly absent. These acts of misconduct which were duly proved by the respondent do merit punishment.



W.A(MD) Nos.649 of 2020 & 1439 of 2021

WEB COPY

10. We therefore hold that the employee will not be entitled to the continuity of service. He could have been granted only 50% of the backwages. It is also seen that an employee had been paid the last drawn wages till date. Whatever be the excess pay that had been paid by the TNAGEDCO shall be adjusted and deducted while settling the terminal benefits of the employee. ***W.A.(MD)No.649 of 2020 is partly allowed.***
No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
20.08.2025

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W.A(MD) Nos.649 of 2020 & 1439 of 2021

G.R.SWAMINATHAN, J.

AND

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rmi

W.A(MD) Nos.649 of 2020 & 1439 of 2021

20.08.2025