



W.P.(MD)No.29917 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.29917 of 2024

and

W.M.P.(MD)Nos.25210 and 25211 of 2024

M.Boothathan

... Petitioner

-VS-

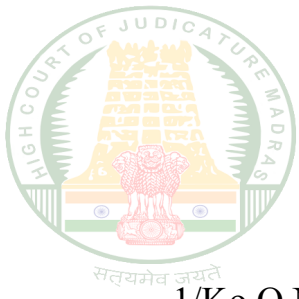
1.The Superintending Engineer,
Tirunelveli Electricity Distribution,
(TANGEDCO/TNEB),
Maharaja Nagar,
Tirunelveli District - 11.

2.The Executive Engineer,
Distribution/Urban,
TANGEDCO/TNEB,
Perumalpuram,
Tirunelveli District - 11.

3.The Assistant Executive Engineer,
Distribution/Urban,
TANGEDCO/TNEB,
Vannarpettai, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Punishment Order in Ku.Aa.No.007954/499-1/Ni.Pi-IV/Vu.



W.P.(MD)No.29917 of 2024

1/Ko.O.Na/2024 dated 04.06.2024, on the file of the first respondent and consequential Impugned Order of reduction of basic pay in Ku.No. 3708/863/Ni.Pi/Vu.2/Ko.Voo.Ni/24 dated 25.07.2024 on the file of the second respondent and consequential Impugned Order of revised recovery in Ku.No. 3708/863/Ni.Pi/Vu.2/Ko.Reduction of Pay/2024-2 dated 06.09.2024 on the file of the second respondent and consequential impugned order of withhold the retirement benefits in Letter No.019072/721/Ni.Pi. II/Vu.3/Ko.Tha.Ka/2024 dated 26.09.2024, on the file of the first respondent, quash the same as illegal and consequently, directing the respondents to provide all the attendant benefits and release the terminal benefits without reduction of basic pay and recovery, within the time to be stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.S.Arivazhagan
Standing Counsel

ORDER

This Writ Petition has been filed seeking to quash the following impugned orders:-

(i) The Punishment Order in Ku.Aa.No.007954/499-1/Ni.Pi-IV/Vu.

1/Ko.O.Na/2024 dated 04.06.2024, issued by the first respondent;



W.P.(MD)No.29917 of 2024

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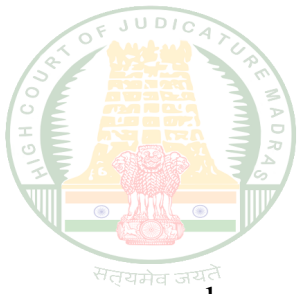
(ii) The Order of reduction of basic pay in Ku.No.3708/863/Ni.Pi/Vu. 2/Ko.Voo.Ni/24 dated 25.07.2024, issued by the second respondent;

(iii) The Revised Recovery Order in Ku.No.3708/863/Ni.Pi/Vu. 2/Ko.Reduction of Pay/2024-2 dated 06.09.2024, issued by the second respondent; and

(iv) The Order withholding retirement benefits in Letter No. 019072/721/Ni.Pi.II/Vu.3/Ko.Tha.Ka/2024 dated 26.09.2024, issued by the first respondent;

and consequently, to direct the respondents to release all terminal and retirement benefits to the petitioner without any reduction in basic pay or recovery and to extend all attendant and consequential service benefits, within a time frame that may be stipulated by this Court.

2. The learned counsel for the petitioner submits that the petitioner, having studied up to the 8th Standard, was initially appointed as a contract daily wage employee in the Tamil Nadu Electricity Board (TNEB) and later absorbed as 'Field Assistant' on consolidated pay on 13.02.1998, based on the recommendations of the Justice Khalid Commission. His services were



W.P.(MD)No.29917 of 2024

subsequently regularized under the regular time scale of pay and he was promoted as Line Inspector on 13.09.2011 and thereafter, permitted to retire from service on 31.03.2024, after rendering over 26 years of unblemished and sincere service. After decades of service and just two months prior to retirement, a Charge Memo dated 24.01.2024 was issued alleging that the petitioner had submitted a bogus educational certificate at the time of initial appointment, purportedly, to prove his date of birth and educational qualification.

3. The learned counsel for the petitioner further submits that despite pendency of the charge, the first respondent allowed the petitioner to retire through proceedings dated 28.03.2024 and the petitioner was formally retired on 30.03.2024. However, shockingly, post-retirement, the second respondent passed an impugned order dated 25.07.2024, imposing punishment of reduction of basic pay from Rs.67,100 + 6,200 to Rs.21,100, with effect for three years with cumulative effect, thereby, seriously impacting his terminal and pensionary benefits. Thereafter, a Revised Recovery Order dated 06.09.2024 was issued by the first respondent, demanding recovery of Rs.56,37,600/- from the petitioner and withholding pension and retirement benefits, unless the said recovery is made.



W.P.(MD)No.29917 of 2024

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4. The learned counsel submits that since the petitioner was already permitted to retire from service, the aforesaid orders are legally untenable and once retirement is effected, no recovery or penalty impacting pensionary rights can be imposed, as per established law. Further, the only charge pertains to alleged submission of a forged educational certificate at the time of appointment. However, as per TANGEDCO Proceedings No.9 dated 23.05.2012, based on the Justice Khalid Commission Report, the TNEB had specifically relaxed the rules regarding educational qualification and age for contract labourers regularized before 31.03.1998. Therefore, the requirement of 8th Standard qualification was not mandatory and the very basis of the charge falls to the ground.

5. The learned counsel further submits that the punitive recovery and withholding of retirement benefits, after permitting the petitioner to retire, is impermissible in law, arbitrary and violative of natural justice, especially, since no final order was passed before retirement and the petitioner was not afforded an opportunity of fair adjudication. Hence, the petitioner prays that the impugned punishment and recovery orders be quashed and the respondents be directed to



W.P.(MD)No.29917 of 2024

release all retirement benefits including pension, gratuity and other dues without any reduction in pay or recovery.

6. The learned counsel for the petitioner submits that the issue involved in the present Writ Petition is squarely covered by the order passed by this Court in W.P.(MD)No.14102 of 2024, dated 09.07.2024, wherein this Court has held as follows:-

"4. When the matter is taken up today, the learned Standing counsel for the respondents clarified that the relieving order, which has been issued at the time of retirement of the petitioner, was a conditional order. Whatever may be the case, after completion of enquiry, the petitioner has been imposed with the punishment of reduction of pay to the time when the above punishment was imposed, the petitioner had become a pensioner, so it is claimed by the petitioner that the impractical punishment has been imposed against the pensioner and it is patently illegal.

5. In fact, the petitioner had joined the services of the respondent as early as in the year 1986 as a contractual labour and on 30.12.1996 and later he was absorbed as Labour in the respondent department. The petitioner has rendered service as employee of the respondent corporation from the year 1996 till the date of his retirement on 28.12.2023. After having allowed the petitioner to work for nearly 27



W.P.(MD)No.29917 of 2024

years, the respondent has found fault with the petitioner that he had produced false age proof at the time of his joining.

6. The learned Standing counsel for the respondents submitted that as per Justice Kalid Committee report which had contemplated the disciplinary action against those persons, who have produced false age proof, is to see those persons who had reached the maximum age should not be retained in their services on production of their false age proof.

7. Had any action taken at the time when the petitioner was in the services of the respondent, it would have served the purpose and there would be some reduction in the services of the petitioner on account of the alleged false proof of the age. So far as his services of 27 years is concerned there is no blemish. For a person, who joined services in the year 1996, charge memo has been given in the year 2023 on the allegation that he has produced false age proof at the time of appointment. It is needless to state that delayed action leads to ineffective defence. Since the petitioner is no more in the services of the respondent, such an unreasonable punishment of reducing the pay of the petitioner to basic level and then to stop three years increment is an impossible one. Because there cannot be any annual increment to the petitioner as he has already retired from service. The punishment is irrational and illogic and the disciplinary action itself initiated at the vague end of the retirement of the petitioner on the allegation of the action alleged to have been done by him in the year 1976. Hence, I feel the whole disciplinary proceedings itself is vitiated due to inordinate delay and it is liable to be set aside.



W.P.(MD)No.29917 of 2024

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8. In the result, this writ petition is allowed and the impugned order passed by the first respondent dated 23.05.2024 is set aside. No Costs. Consequently, connected miscellaneous petition is closed."

7. Per contra, the learned Standing Counsel appearing for the respondents submits that the petitioner was initially engaged as a contract labourer and subsequently appointed as 'Helper' in TNEB on 13.02.1998 pursuant to the implementation of the Justice Khalid Commission's recommendations. At the time of his induction into regular service, the petitioner produced an educational certificate claiming he had passed 8th Standard, issued by Hindu Adi Dravidar Middle School, Sivakasi, which included his date of birth as 05.03.1964. In accordance with Board's standing instructions, the genuineness of the said certificate was referred to both the Headmaster of the said school and the Assistant Educational Officer, Srivaikuntam. Both authorities categorically denied the authenticity of the certificate, confirming that no such person was found in the school records. Based on this information, the respondents initiated disciplinary proceedings against the petitioner for having produced a bogus educational certificate at the time of initial appointment.

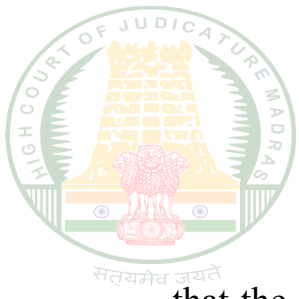


W.P.(MD)No.29917 of 2024

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8. The learned Standing Counsel further submits that the proceedings were conducted in accordance with the TANGEDCO Disciplinary Proceedings Manual and after the charges were proved, a punishment of reduction of pay to the minimum of the time scale for three years with cumulative effect was imposed through the order dated 04.06.2024, in line with (Per) B.P.(F.B.) No.27, dated 27.11.2002. As the petitioner attained the age of superannuation on 31.03.2024, the full implementation of the punishment could not be completed. Therefore, the unexpired portion of the punishment and the corresponding monetary recovery were duly imposed through subsequent orders dated 25.07.2024 (Reduction of Pay) and 06.09.2024 (Revised Recovery of Rs.56,37,600/-).

9. It is further submitted that the retirement of the petitioner was not a bar to disciplinary proceedings, as the charge memo was issued prior to retirement and action was taken as per law. The final order and subsequent recovery were legally sustainable and the withholding of terminal benefits was necessitated due to the recovery imposed by the punishment order. While it is admitted that Justice Khalid Commission's report recommended regularization of contract labourers by relaxing the norms of educational qualification and age, it is also clearly stated



W.P.(MD)No.29917 of 2024

that the identity of such employees must be verified through certificates such as, transfer or school records. Therefore, although qualification may not have been mandatory, submission of a forged certificate with false date of birth constitutes a serious misconduct.

10. The learned Standing Counsel further submits that the respondents have acted strictly in accordance with the rules, circulars and instructions in force. The disciplinary action, recovery and withholding of retirement benefits are legally valid and justified in the light of the proven misconduct of the petitioner. Further, the petitioner's contention that he belongs to Group-D category is misleading. As a Line Inspector, he falls under Class III, Division IX (Group-C) as per the TNEB service classification and the action taken against him complies with the applicable regulations. Therefore, the learned Standing Counsel for the respondents submits that the Writ Petition be dismissed, as the impugned orders are legal, valid and passed after due compliance with procedure, without any arbitrariness or malice.



W.P.(MD)No.29917 of 2024

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11. Heard both sides.

12. Upon consideration of the submissions and the materials placed on record, this Court finds that the alleged misconduct *viz.*, submission of a bogus educational certificate dates back to 1998, the year of the petitioner's appointment. However, the charge memo was issued only on 24.01.2024, after over 25 years of service and just two months before the petitioner's superannuation on 31.03.2024. The long and unexplained delay in initiating disciplinary action renders the proceedings highly belated and arbitrary, particularly, when the petitioner had already served the Board without blemish for over two decades.

13. The impugned punishment was imposed after the petitioner had already been permitted to retire on 31.03.2024, vide proceedings dated 28.03.2024. Once an employee is allowed to retire, punitive orders having financial implications on pensionary benefits cannot be retrospectively imposed, unless disciplinary proceedings were concluded and punishment imposed before retirement in accordance with Rule 9 of the Tamil Nadu Pension Rules, 1978.



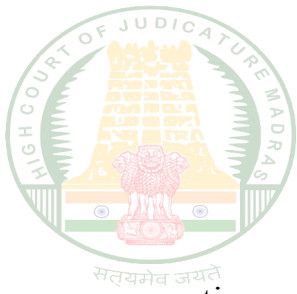
W.P.(MD)No.29917 of 2024

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14. This Court notes that as per the Justice Khalid Commission Report, which was accepted and enforced by the Hon'ble Supreme Court in S.L.P.No. 1820/1990 and subsequently implemented by TANGEDCO through Proceedings dated 23.05.2012, educational qualifications were explicitly relaxed for regularizing the services of contract labourers, who had served for two years or more. The petitioner was regularized under this very scheme in 1998 and hence, production of an educational certificate was not a statutory or essential requirement for such regularization.

15. Even assuming that the educational certificate was submitted, it was used primarily to establish the petitioner's date of birth, which was accepted and acted upon throughout his service, culminating in retirement on completion of 60 years. The date of birth, as per the said certificate, was never disputed during his entire tenure. Retrospectively questioning its authenticity after 26 years is not only inequitable but also contrary to the principles of estoppel.

16. The impugned orders of recovery and reduction in basic pay dated 25.07.2024 and 06.09.2024, respectively, are impermissible under law after

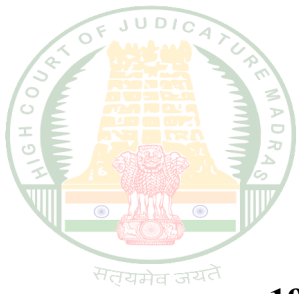


W.P.(MD)No.29917 of 2024

retirement, especially, when the petitioner was permitted to retire without any express reservation. The Hon'ble Supreme Court in **State of Punjab vs. Rafiq Masih** [(2015) 4 SCC 334] has categorically held that recovery from retired employees or employees nearing retirement is not legally sustainable, unless fraud is established through a proper judicial process.

17. Even if the allegation were to be sustained, the punishment of reduction to minimum time scale of pay for 3 years with cumulative effect and recovery of Rs.56,37,600/-, is grossly disproportionate to the nature of the charge, especially, in the light of the petitioner's long, blemish-free service record and the fact that no financial gain has been shown to have accrued to the petitioner from the alleged certificate.

18. There is no material on record to suggest that the petitioner acted with fraudulent intent or gained appointment purely on the strength of a forged certificate. Rather, the record shows he was absorbed based on Justice Khalid Commission recommendations, under relaxed eligibility norms, where experience was valued above formal qualification.



W.P.(MD)No.29917 of 2024

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19. In the light of the above, this Court is of the considered view that the impugned orders dated 04.06.2024, 25.07.2024, 06.09.2024 and 26.09.2024 are legally unsustainable and violative of Articles 14 and 21 of the Constitution of India. Accordingly, the said orders are quashed and the respondents are directed to release all terminal benefits due to the petitioner, including pension, gratuity, and other eligible dues, within a period of 12 weeks from the date of receipt of a copy of this order.

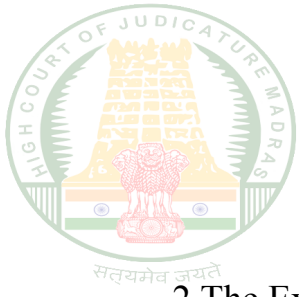
20. With the above observations and directions, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

16.07.2025

To:-

- 1.The Superintending Engineer,
Tirunelveli Electricity Distribution,
(TANGEDCO/TNEB),
Maharaja Nagar,
Tirunelveli District - 11.



W.P.(MD)No.29917 of 2024

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Vannarpettai, Tirunelveli District.



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W.P.(MD)No.29917 of 2024

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.29917 of 2024

16.07.2025