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W.P.No.14876 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.03.2026

Pronounced on : 30.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.14876 of 2011

and

MP.No.1 of 2011

A.Whenseslaus
Ex-Industrial Worker,
S/o.Arumaidoss,
13H, Hostel Type,
Block-10, Neyveli.

... Petitioner

vs

1. The Chairman cum Managing Director,
Neyveli Lignite Corporation,
Neyveli.
2. The Chief Manager (Transport)
Bus Service
Neyveli Lignite Corporation,
Neyveli.
3. The Additional Chief Manager/
Bus Service,
Neyveli Lignite Corporation,
Neyveli.
4. The Managing Director,
NLC Indcodserve,
Neyveli.

... Respondents



W.P.No.14876 of 2011

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records in pursuant to the rejection order issued by the second respondent vide Memo No.530/CM/Tr/Bus/DA/2007-7 dated 24.05.2011 and the punishment order issued by the third respondent vide Memo No.530/ACM/Bus/DA/2007-5 dated 11.08.2008 and quash the same and direct the respondents to reinstate the petitioner in service as Industrial Worker Grade II with all consequential benefits and pass orders.

For Petitioner : Ms.S.Sriranjini for
Mr.T.P.Prabakaran

For Respondents : Mr.N.Nithianandam

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the records.

2. The petitioner, by the present writ petition has assailed the action of the second respondent in passing the order dated 24.05.2011 confirming the punishment order issued by the third respondent *vide* Memo dated 11.08.2008, on the ground that the aforementioned orders are vitiated on account of non-



W.P.No.14876 of 2011

consideration of the pleas taken by the petitioner in support of his case and also that the punishment awarded is disproportionate to the alleged violation, thereby, the order has been passed in the violation of principles of natural justice.

3. Briefly put the case of the petitioner is that he was appointed as operator in the bus section under the control of the fourth respondent *vide* order dated 01.01.1993; that the fourth respondent is the society formed under Tamil Nadu Co-operative Societies Act; that certain functions of the first respondent have been out sourced to the fourth respondent society; that a tripartite settlement was arrived at between the Management of the first respondent and the Unions of the first respondent in May, 1995 by which it was agreed that the workers engaged by the fourth respondent in various production units of the first respondent as on 18.05.1995 would be absorbed in a phased manner in the first respondent; that in accordance with the aforesaid settlement, he was appointed as Industrial Worker Grade – II Trainee in the first respondent corporation on 24.01.2006; and that on being relieved by the fourth respondent *vide* Office Order dated 26.01.2006, he had joined the services of the first respondent.



W.P.No.14876 of 2011

4. The petitioner further contends that after being appointed as Industrial

Worker Grade – II, he was served with the charge memo dated 21.02.2007 by the third respondent; that the charges levelled against him were that while he was considered for being engaged by the fourth respondent as operator in the year 1993, the said engagement/appointment was based on the condition that “No other member is already in NLC/NLC INDCOSERVE”; that he had suppressed the material information at the time of his engagement by the fourth respondent, of his elder brother A.Anthuvan Jayakumar, being already in NLC employment right from 06.06.1985; and also that he had failed to indicate/mention his elder brother’s name in the attestation proforma form submitted at the time of his absorption into regular employment of the first respondent.

5. Petitioner further contended that on being served with the charge memo dated 21.02.2007, he had submitted his explanation to the same *vide* letter dated 02.03.2007 to the third respondent denying the charge; that the third respondent not being satisfied with the explanation, initiated disciplinary proceedings and appointed enquiry officer to conduct enquiry into the articles of charges and submit his report; that the enquiry officer submitted his report holding



W.P.No.14876 of 2011

the charges levelled against him as proved; that the disciplinary authority/third respondent thereafter issued a show cause notice dated 05.06.2008 proposing to inflict the penalty of removal from service without notice or pay/wage in lieu of notice; that he had submitted his explanation to the said show cause notice *vide* letter dated 18.06.2008; and that the third respondent thereafter had issued order dated 11.08.2008 removing him from service without notice or pay/wage.

6. It is the further case of the petitioner that as the order of the third respondent by which he was visited with penalty of removal from service mentioned that an appeal lies against the order with the second respondent within 14 days, he had filed appeal before the second respondent on 04.09.2008.

7. The petitioner further contended that since, the appeal filed by him on 04.09.2008 was not being decided by the second respondent, he had approached this Court by filing writ petition *vide* W.P.No.9237 of 2011 praying to quash the order dated 11.08.2008 by which he was removed from service by the third respondent and direct the respondents to reinstate him into service; that this Court



W.P.No.14876 of 2011

while disposing the aforesaid writ petition, by order dated 20.04.2011 directed the second respondent to dispose of the appeal filed by him on 04.09.2008 within a period of four weeks from the date of receipt of the copy of the order; that in accordance with the said direction, the second respondent passed the order dated 24.05.2011 rejecting the appeal filed by him; and that the second respondent while rejecting the appeal did not consider all the pleas taken in the appeal and also did not pass a speaking order.

8. It is the specific case of the petitioner that in response to the show cause notice issued by the third respondent as well as in the appeal filed before the second respondent, he had taken a specific plea that in respect of certain employees, who were also issued with charge memos containing similar articles of charge, a lenient view was taken and a minor penalty was imposed, while the petitioner was visited with the major penalty or removal from service for the same set of alleged violation; and that the action of the respondents in awarding the penalty of removal from service is not only disproportionate but also discriminatory, as petitioner is only singled out, while in other cases of a similar nature, a lenient view was taken.



W.P.No.14876 of 2011

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9. Petitioner further contended that in the appeal filed by him on 04.09.2008, he had mentioned about four specific instances where the respondents had taken a lenient view and imposed a minor penalty of cut in increment for the same charge as levelled against the petitioner; that the second respondent while passing the order dated 24.05.2011 did not even make a reference to the specific plea taken by the petitioner or the instances referred by him and as such, the order of the second respondent is vitiated; and thus, the present writ petition is filed as the impugned order suffers from non-consideration of his appeal in correct and right perspective.

10. Submitting as above, the petitioner contended that the action of the respondents is discriminatory and also suffers from non-consideration of the plea taken, thereby resulting in a violation of principles of natural justice.

11. Counter affidavit on behalf of the respondents 1 to 3 is filed.

12. On behalf of the respondents, it is contended that the petitioner was



W.P.No.14876 of 2011

appointed in the services of the first respondent only on 24.01.2006; and that at the time of joining regular service of the first respondent, the petitioner was required to submit attestation form giving his family details; that the petitioner in the said form, had only mentioned the details of his father, mother, wife, brother and two sisters and did not mention about his elder brother Athuvan Jayakumar, who is already employed with the NLC/first respondent.

13. On behalf of the respondents 1 to 3, it is also contended that though the petitioner, in the enquiry proceedings before the disciplinary authority and also in the appeal, claimed that his elder brother on being married, has been living separately and for that reason he had not mentioned his details in the attestation form, and nothing prevented the petitioner from disclosing the name of his elder brother and the factum of he living separately, rather than resorting to suppression.

14. It is further contended that the petitioner not only did not disclose the aforesaid fact while being appointed to the regular service of the first respondent, but also did not disclose the said fact when he was being engaged by the fourth respondent, which only goes to show that the petitioner secured the engagement



W.P.No.14876 of 2011

initially with the fourth respondent and thereafter, the employment with the first respondent on the basis of the tripartite agreement, by making a false declaration.

15. On behalf of the respondents, it is further contended that the appointment order issued, clearly contains the conditions of the appointment; that one of the condition of the appointment is that, his appointment is subject to verification of his/her character and antecedents through vigilance verification/other source; and that in the event of adverse report, his/her services will be summarily terminated.

16. On behalf of the respondents, it is further contended that since the vigilance verification revealed the fact of the petitioner's elder brother working with NLC/first respondent and the petitioner having suppressed the aforementioned information at the time of submitting attestation form, the petitioner had violated the conditions of his appointment; and that for the said reason, the authorities have issued a charge memo and by following the procedure, passed the order imposing the penalty of removal from service.



W.P.No.14876 of 2011

17. On behalf of the respondents, it is contended that the purpose of requiring to disclose the information of any of the family members working in the first respondent or fourth respondent is to avoid cornering of employment by one family; and that since, the petitioner, by not disclosing of his elder brother's employment, secured engagement with the fourth respondent in the year 1993 and on the basis of the said engagement, having secured regular employment in the first respondent, the petitioner not only violated the terms of the engagement/appointment of fourth respondent and first respondent but also violated the basic objective, which the first respondent intended to implement and thus, the petitioner was visited with the order of penalty of removal from service.

18. On behalf of the respondents, it is also contended that since, the petitioner had availed a remedy of appeal before the second respondent and the said authority also having not found good reason to interfere with the order of the disciplinary authority, this Court, in a writ petition, cannot re-appreciate or re-evaluate the material as to whether the action of the disciplinary authority was correct or not.



W.P.No.14876 of 2011

19. Contending as above, the learned Standing Counsel appearing for the respondents seeks for dismissal of the writ petition.

20. I have taken note of the respective submissions as urged.

21. While, on behalf of the petitioner, it is contended that the third respondent, while passing the order imposing the penalty of removing from service, did not consider the plea that in similar circumstances, the authorities having taken a lenient view and issuing a warning to one A. Joseph Xavier, who is also alleged of having suppressed the fact about the employment of his brother with the first respondent while securing employment for him and also the said plea, though taken before the enquiry officer, no finding thereon having been recorded; thereby, the action of the respondents 1 to 3 against the petitioner, apart from being harsh, is discriminatory.

22. The respondents on the other hand contended that in the aforesaid case, a lenient view was taken, considering the length of service put in by the said employee.

23. However, it is to be noted that the petitioner in the appeal filed before the second respondent, had not only referred to the case mentioned by him



W.P.No.14876 of 2011

before the enquiry officer and the third respondent in disciplinary proceedings, but had also given the details of three specific cases of other employees wherein the respondents had imposed the penalty of stoppage of two increments with cumulative effect.

24. However, a perusal of the enquiry report, the order of the disciplinary authority ie., third respondent would show that neither the enquiry report nor the disciplinary authorities order deals with the specific instances as raised by the petitioner relating to the award of penalty in the form of warning to the employee.

25. The petitioner, in addition to referring to the case of the employee which he had mentioned before the enquiry officer as well as the disciplinary authority, had also mentioned the names of three other employees where the appellate authority while considering the appeal filed by them against the order of penalty of removal from service on the same grounds of suppression of employment of their brother family member in the first respondent corporation, had modified the penalty to one of “stoppage of two increments with cumulative effect”; to buttress his plea that the punishment awarded to him is disproportionate.



W.P.No.14876 of 2011

WEB COPY

26. However, in the impugned order dated 24.05.2011 passed by the second respondent, there is no mention or discussion as to how the said cases referred by the petitioner were different for the authority to come to a different conclusion in the facts of the present case, thereby confirming the order of the third respondent removing the petitioner from service.

27. Though the learned Standing Counsel appearing on behalf of the respondents 1 to 3 contended that in all the aforesaid cases, as the said employees have put in long service, the said fact was taken into consideration by the authority in order to modify the penalty imposed on them, the copies of the appeal order as placed before this Court in respect of the said employees, do not record the said reason as the basis for modifying the penalty orders, by the appellate authority in those cases. Further, as the second respondent, while rejecting the appeal of the petitioner, did not even refer to the said cases, the explanation now offered by the learned Standing Counsel appearing for the respondents 1 to 3 cannot be accepted in the absence of the second respondent stating so in his order and would have to be treated as an afterthought.



W.P.No.14876 of 2011

28. It is also important to note another aspect of the matter ie., appointment letter by which the petitioner was appointed as Industrial Worker Grade – II (Trainee) in the first respondent corporation. As per the terms and conditions of the said appointment letter, the petitioner is required to undergo training for a period of six months and during that training period, if his/her work and conduct are found to be unsatisfactory, the employer reserves a right to terminate the service without notice. Thus, the training period of six months can be considered as the probation period, and on completion of such training, the employee is to be considered as in regular service. If that be so, the respondent, in the name of causing verification of his/her character and antecedents through vigilance verification, cannot keep the said verification pending for long and if any action is to be taken by causing verification, the same should be before the completion of training period.

29. Further, it is not the case of the respondents that though during the verification, the information furnished by the petitioner was found correct, on account of the complaint or information which had come to light subsequently, the authorities having found that the petitioner having resorted to suppression for



W.P.No.14876 of 2011

initiating disciplinary action and visiting him with major penalty of removal from service. The fact that the respondents did not undertake verification immediately after issuing the appointment order like the one to that of the petitioner and initiating action at a later point of time on the ground that the vigilance verification had disclosed certain facts which the petitioner had failed to disclose and thus, resorted to suppression, which in the considered view of this Court cannot be permitted without any outer time limit being specified for causing verification.

30. Further, in a country like ours where unemployment is high and securing employment, particularly in the Government/public sector is much desired, one can disown his family like parents, brothers and sisters including wife.

31. Above being the reality of life, the non-disclosure by the petitioner of his elder brother being employed with the first respondent, which the petitioner claims is on account of he living separately after his marriage and thus, the petitioner being under the impression that he is required to disclose only family with whom he is presently staying, the said explanation offered appears plausible and cannot be brushed aside lightly.



W.P.No.14876 of 2011

32. Further, when such a specific plea is taken by the petitioner in his defence before the enquiry officer, the disciplinary authority and also in the appeal, no effort has been made to call upon the petitioner to establish the aforesaid fact. On the other hand, the respondents having regard to their rules only proceeded with further action by visiting the petitioner with penalty by passing order of removal from service.

33. Further, the petitioner from the beginning having taken a specific stand of the respondents adopting different yardstick for different people, for the same violation and the petitioner having given the specific instances in the appeal memo where the appellate authority had taken a lenient view by issuing warning/penalty of stoppage of increment for two years with cumulative effect, as noted herein above, the non consideration of the said instances pointed out by the petitioner in his appeal by the second respondent and there being no whisper in the order of the second respondent of the same, this Court is of the view that the second respondent has passed the impugned order dated 24.05.2011 in a mechanical manner without considering the plea taken in the appeal and recording his findings thereon. Thus, this Court has no hesitation to hold that the impugned



W.P.No.14876 of 2011

order suffers from the vice of non-recording of reasons and thus, cannot be sustained.

34. Accordingly, the writ petition is allowed; the impugned order of the second respondent dated 24.05.2011 is set aside and the matter is remitted back to the second respondent to decide the appeal afresh albeit in accordance with law after affording an opportunity of hearing to the petitioner by passing a speaking order and communicating the same to the petitioner.

35. However, taking note of the fact that at an earlier point of time, the second respondent did not decide the appeal in timely manner, for which the petitioner was forced to approach this Court by filing writ petition W.P.No.9237 of 2011, this Court is of the view that the second respondent is directed to decide the matter afresh within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

30.03.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh



W.P.No.14876 of 2011

To

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Neyveli Lignite Corporation,
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2. The Chief Manager (Transport)
Bus Service
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W.P.No.14876 of 2011

T. VINOD KUMAR, J.

dh

Pre-delivery order made in
W.P.No.14876 of 2011

30.03.2026