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WP No.7466 of 2



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**RESERVED ON : 21.09.2026**

**PRONOUNCED ON : 24.09.2026**

**CORAM**

**THE HON'BLE MR.JUSTICE T. VINOD KUMAR**

**WP No. 7466 of 2017**

**CNR:{HCMA011631632017}**

**AND**

**WMP Nos. 8153 & 8154 of 2017**



Case QR

Mr.M.Abdul Samath

..Petitioner(s)

**Vs.**

1. The Chairman & Managing Director,  
Neyveli Lignite Corporation Ltd, Neyveli,  
Cuddalore District.

2. The Chief Executive Officer,  
Thermal Power Project,  
Harbour Estate, Tuticorin- 628 004.

.. Respondents

Prayer : This Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the second respondent in his proceedings No.NTPL/ P&A/ 1200/ 2011- 412 dated 30.09.2011 and No.NTPL/ HR/ 1200/ 2013 - 612 dated 26.07.2013 and quash the said orders and direct the respondents to sanction Temporary Disablement leave to the petitioner for the entire period of treatment at NLC hospital at Neyveli and at Apollo Hospital at Chennai from 27.06.2010 to 08.12.2010 (165 days) grant full pay for the entire period.

For Petitioner(s) : Mr.J.Raja Kallifullah  
Senior Counsel  
for Mr.J.Jayendrkrishnan



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For Respondent(s) : Mr.N.Nithianandam  
Standing Counsel

### **ORDER**

Heard the learned Senior Counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the records.

2. The case of the petitioner in brief is that while he was working as Deputy General Manager in Neyveli Lignite Corporation ( in short 'NLC'), he was transferred to National Thermal Power Limited (in short 'NTPL') at Tuticorin on 02.12.2009; that NTPL is (a joint venture between NLC and TANGEDCO); that while working at NTPL, he was promoted as General Manager; and that in relation employees who were transferred NLC to NTPL, the NLC employees leave rules would apply.

3. It is the further case of the petitioner that during the course of his service at NTPL, he was asked to attend a meeting at Trichy on 21.06.2010 and thereafter a meeting at Neyveli on 22/23.06 2010; that he had sought leave from 24.06.2010 to 27.06.2010 to vacate the quarter at NLC which was in his occupation, post his transfer to NTPL; that after vacating the quarter at Neyveli on 27.06.2010 and returning back to NTPL at Tuticorin, he met with an accident

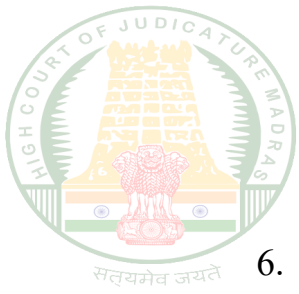


and underwent medical treatment for 165 days: and that he rejoined duty on 09.12.2010 after being declared fit for duty by NLC doctor.

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4. The petitioner contends that as he had suffered accident while returning after attending official work, he had submitted a representation dated 21.01.2011, seeking to treat the period during which he underwent treatment i.e. from 27.06.2010 to 08.12.2010 as leave on Temporary Disablement by treating the accident suffered by him as occurred in the course of his duties; that the second respondent, by proceedings dated 30.09.2011, however rejected the said representation and had regulated the period of absence as Commuted Medical Leave as already sanctioned.

5. The petitioner further contends that aggrieved by the aforesaid rejection, he had filed an appeal to the first respondent on 18.06.2012; that from the proceedings of the second respondent dated 19.06.2012, the first respondent approved his appeal on 25.06.2012; that the General Manager of 'NLC' vide his communication dated 29.06.2012 informed the Chief Executive Officer of 'NTPL; of the competent authority approving the sanction of Special Disability Leave for taking necessary action; that the Deputy General Manager (HOHR) by his letter dated 02.07.2012 addressed to the Chief General Superintendent (Medical) NLC Hospital, sought for issuing necessary certificate for sanction of Disability Leave.



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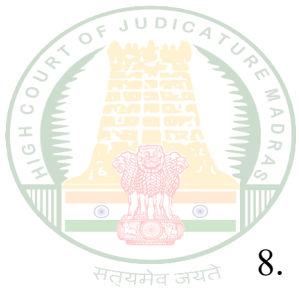
6. The petitioner contends that despite the competent authority having allowed his appeal for sanction of Special Disability Leave the General Superintendent of NLC Hospital at Neyveli, instead of issuing necessary certificate for sanction of Special Disability Leave to the petitioner raised an objection stating that the Standing Committee did not examine the case as per the rules and sought Chief Law Officer views on the sanction of Special Disability Leave from legal angle; that the General Manager (HR) Department vide internal communication dated 22.08.2012 had stated that there were no medical representatives from the Medical Branch available in the Standing Committee at NTPL and three cases have been examined by the Committee and Special Disability Leave has been sanctioned and thus, the case of the petitioner may also be examined and the Special Disability Leave may be sanctioned as per the delegation of powers; and that the first respondent, in exercise of powers conferred, having sanctioned Special Disability Leave, neither the General Superintendent ( Medical) of the NLC could have raised an objection that the approval not being examined by the Standing committee, nor, could the General Manager (HR) having clarified that there being no medical representative from the Medical Branch available in the Standing Committee at NTPL and the Committee having sanctioned Special Disability Leave in three cases, the petitioner's case may be examined and Special Disability Leave be sanctioned as per the delegation of power, the second respondent and the General



Superintendent instead of issuing the necessary certificate to enable him to avail Special Disability Leave failed act on the aforesaid instructions.

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7. It is the further case of the petitioner that despite his appeal having been allowed by the first respondent on 25.06.2012 as the commuted medical leave granted to him, was not treated as Special Disability Leave/ leave on Temporary Disablement and he was not granted the attended benefit thereunder; he had followed up the matter with the Chief General Manager (HR); that the Chief General Manager (HR) and brought to the notice of the second respondent of the appeal filed by him dated 18.06.2012 and sought information on the said appeal; that the second respondent, in response to the said letter addressed by the Chief General Manager vide proceedings dated 26.07.2013 stated that the appeal filed by the petitioner on 18.06.2012 against the order of the second respondent dated 30.09.2011 had been examined by the competent authority and the same had been rejected; that he did not receive any order passed by the competent authority rejecting his appeal nor was he aware of the order of the competent authority i.e. the first respondent to whom he had filed an appeal on 18.06.2012; that the aforesaid statement made by the impugned proceedings is contrary to the proceedings dated 19.06.2012 as approved by the first respondent on 25.06.2012; and that the copy of the said communication was also marked to him.



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8. The petitioner contended that on receipt of the aforesaid communication from the second respondent and noting that the contents of the said letter being contrary to the proceeding dated 19.06.2012 as approved by the first respondent on 25.06.2012, he had submitted a representation dated 06.05.2014 to the first respondent (submitted on 01.10.2015) setting out the facts relating to the accident, his representation to the second respondent, the appeal filed before the first respondent on 18.06.2012 and requested for reconsideration of his appeal and for sanction of leave already applied for; and that in response to the aforesaid representation instead of first respondent, the second respondent by his communication dated 25.06.2014 stated that the said representation was rejected, stating that as there are no fresh points brought forth for reconsidering the decision already taken by the competent authority; that the second respondent is not the competent authority to take a decision on his representation to reconsider, as the same was addressed to the first respondent; and thus, the entire action of the second respondent in stating that his request for sanction of Special Disability Leave having been rejected by the competent authority in his proceedings dated 26.07.2013 is only a make believe and contrary to already sanctioned Special Disability Leave by the competent authority by approving the office note dated 19.06.2012, by affixing his signature on 25.06.2012, which had been communicated to the Chief Executive Officer of NTPL by the communication dated 29.06.2012 and is also contrary to



the respondents'' medical employees leave rules.

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9. Counter affidavit on behalf of the respondents is filed.

10. The respondent, by the counter affidavit contended that the petitioner had approached this Court with unclean hands and by misleading facts and manipulating certain documents, disentitling him to maintain the present writ petition.

11. The respondent also contended that the petitioner is guilty of suppression of material and relevant facts and also manipulation of records; and that the petitioner has annexed many internal notes and communications of the answering respondent which disclose a serious unbecoming act on the part of the petitioner; that the exhibition of documents/internal communications by the petitioner shows that he had indulged in serious misconduct by laying his hands on the internal documents of the answering respondent in a regular manner; that the petitioner is not entitled for being granted any discretionary relief under article 226 of the constitution of India and thus, he writ petition deserves to be dismissed.

12. The respondents further contended that NTPL is a subsidiary of NLC and TANGEDCO; that the petitioner while working as Deputy General



Manager ( Mechanical) in NLC, was transferred on 02.12.2009 in terms of the service condition; that the petitioner though had joined NTPL, but did not vacate his quarter in NLC till 27.06.2010; that the petitioner was promoted to the post of General Manager (Mechanical) in NTPL when he was due for promotion and attained superannuation in May 2014; that on superannuation, all eligible and entitled terminal benefits were settled; and that the petitioner had also received the same without any protest; and that the filing of the present writ petition in 2017, three years after his retirement seeking benefit of Temporary Disablement Leave, which was rejected by the proceedings of the second respondent dated 30.09.2011 and by the first respondent dated 26.07.2013, is not only adventurous but also usurping the jurisdiction of this Court under Article 226 of the Constitution of India.

13. The respondent by the counter affidavit further contended that the petitioner, while working at NTL, was approved to undertake an inspection at BHEL, Trichy and a discussion at Neyveli with regard to land purchase, between 21.06.2010 and 23.06.2010; that there was no request for Earned Leave on 20.06.2010 for the period from 24.06.2010 to 26.06.2010 for vacating the quarter at Neyveli; that the said letter was manipulated by the petitioner; that though the said letter is dated 26.08.2010, the same was received by answering the respondent only on 02.09.2010; thus, there was neither any leave letter for sanction of Earned Leave nor the petitioner was sanctioned leave after

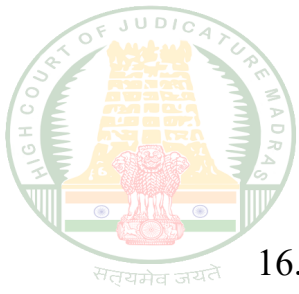


23.06.2010; and thus, the said leave after 23.06.2010 was unauthorised leave.

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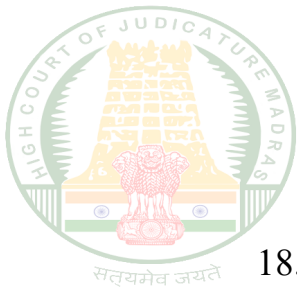
14. The respondents, by the counter affidavit also contended that by the telephonic communication received by it, it appears that the petitioner having met with an accident on 27.06.2010 at about 5.30 p.m. near Veppur; that as a result of the accident, the petitioner was given treatment at Government Hospital, Virudduachalam; that thereafter he was shifted to NLC Hospital at Neyveli and subsequently was transferred and admitted to Apollo Hospital, Chennai, for further treatment, as per NLC Hospital Reference Sheet dated 27.06.2010.

15. The respondents by the counter affidavit also contended that long after the said accident, the petitioner for the first time made a representation dated 09.08.2010 narrating the accident and citing the official works at Trichy and Neyveli immediately before the accident and requested for sanction of leave as Temporary Disablement Leave under Employees Compensation Act, 1923, stating that he had suffered injuries while returning from Neyveli after completing the official work, which statement is palpably false and contrary to records; that the petitioner, after obtaining Fitness Certificate from NLC Hospital, rejoined duty on 09.12.2010; and that thereafter submitted a representation dated 22.01.2011 claiming leave for the period from 27.06.2010 to 08.12.2010 ( 165 days) as leave on Temporary Disablement.



16. The respondent also contended that the second respondent having noticed that the leave letter for the period from 24.06.2010 to 26.06.2010 was submitted only on 02.09.2010 and since the petitioner was not travelling on duty on 27.06.2010, rejected the request made by the petitioner for treating the aforesaid period of 165 days, as Special Disability Leave vide order dated 30.11.2011; that aggrieved by the aforesaid proceedings, the petitioner had preferred appeal dated 18.06.2012 belatedly; that in the said appeal, the petitioner did not raise any new ground or mitigating circumstances for sanction of leave on Temporary Disablement; that the appeal of the petitioner was considered in terms of the provisions of the Act, 1923, applicable leave Rules and the materials on records and the answering second respondent by the impugned proceedings dated 26.07.2013 rejected the said appeal; that the said rejection of the alleged claim by the petitioner by proceedings dated 30.09.2011 and 26.07.2013 remained unchallenged and attained finality and accordingly the petitioner was also allowed to retire in 2014 by paying all terminal benefits; and as such, he is prevented and precluded from challenging the proceedings dated 30.09.2011 & 26.07.2013, after the period of six years and four years respectively.

17. Contenting as above, the respondents seek for dismissal of the writ petition.



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18. I have taken note of the respective contentions urged.

19. From the respective contentions urged, the following issues arise for consideration in the present writ petition is as to :

i) Whether the appeal filed by the petitioner on 18.06.2012 to the first respondent against the order of the second respondent dated 30.09.2011 has been disposed of by the Competent Authority on 25.06.2012 as claimed by the petitioner or was rejected by the competent authority on 30.09.2011 and 26.07.2013 as claimed by the second respondent?

ii) Whether the order of the rejection of the appeal was communicated to the petitioner for the second respondent to claim that the petitioner being aware of the rejection of his appeal and not taking any action, thereon, thus the said order having attained finality?

20. Though the respondents have claimed that the appeal filed by the petitioner on 18.06.2012 having been rejected by the competent authority, neither in the counter affidavit as filed before this Court nor in the course of

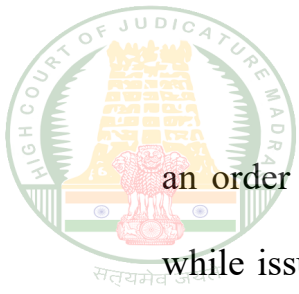


hearing, the respondents did place or produce the order copy by which, the appeal of the petitioner was rejected by the competent authority i.e. the first respondent before whom the said appeal has been preferred.

21. On the other hand, a reading of the counter affidavit filed by the second respondent, particularly paragraph No.14 shows that it is the said respondent who had rejected the appeal filed by the petitioner on 26.07.2013 and not the first respondent. If the appeal is rejected by the second respondent, such rejection is to be held as not by a competent authority being first respondent.

22. It is to be noted that aggrieved by the order of the second respondent dated 30.09.2011, the petitioner had filed an appeal on 18.06.2012 to the Chairman and Managing Director (CMD) and as such, the first respondent being the competent authority, the second respondent ought not to have decided the appeal himself, as it is his order that was under challenge in appeal. The statement made by the second respondent in the counter affidavit of the answering respondent i.e. the second respondent himself rejecting the appeal, would mean that the second respondent himself sitting in the appeal over his order which makes the said decision vitiated.

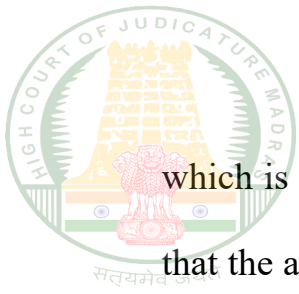
23. Further, the petitioner having filed an appeal to the first respondent, it is not shown to this Court, the first respondent taking any decision by passing



an order in the appeal filed by the petitioner. Though the second respondent, while issuing communication dated 26.07.2013 had stated that the appeal filed by the petitioner has been examined by the competent authority and rejected for the following reasons:-

*“Executive having availed leave (post facto approval ) from 24.06.2010 to 26.06.2010 for personal purpose, he cannot claim that he was on duty on 27.06.2010 especially, when he had started from Neyveli around 2.p.m. and met with an accident around 05.30 p.m. In view of the above, the accident may not be treated as one arising out of and in the course of employment ,*

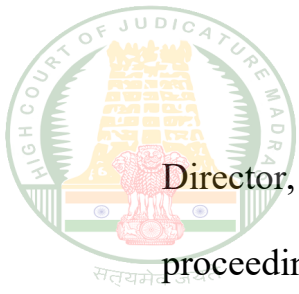
However, the said order containing the aforesaid reason stated to have been passed by the competent authority has not seen the light of the day particularly see as to whether the said order was passed by the first respondent or it is the second respondent who himself had passed the said order. If only, the first respondent has passed the order containing the aforesaid reason, nothing prevented the said order being served on the petitioner, for him to be aware of the decision taken on his appeal. Further, as noted hereinabove, the date on which, the first respondent passed the order on the appeal filed by the petitioner is not mentioned and, on the other hand, the second respondent, by its counter affidavit stated that the appeal of the petitioner was rejected on 26.07.2013



which is the proceedings of the second respondent himself, wherein it is stated that the appeal of the petitioner having been rejected by the competent authority by quoting the reason of rejection, which order containing the said reason neither being served on the petitioner nor being produced before this Court, cannot be considered as the order of the appellate authority viz., first respondent.

24. While the respondents claim that the petitioner has approached this Court with unclean hands and misleading facts and manipulating certain documents, a perusal of the material papers as filed by the petitioner in this Court, coupled with the fact that the respondents not being able to show to this Court as to when the first respondent had disposed of the appeal filed by the petitioner on 18.06.2012, would go to show that it is the respondents who manipulated the records to deny the benefit of grant of Special Disability Leave to the petitioner as sanctioned by the first respondent on 25.06.2012 by affixing his signature on proceedings dated 19.06.2012, coupled with the fact that the same being communicated to the Chief Executive Officer of NTPL by none other than the General Manager (HR) of NLC vide his communication dated 29.06.2012 stating that he is forwarding the sanction of Special Disability Leave duly approved by the competent authority

25. Once, the competent authority, being the Chairman and Managing



Director, having approved the sanction of Special Disability Leave vide proceedings dated 19.06.2012 as approved on 25.06.2012, it is only the said authority who could have revised his proceedings if the leave rules permitted him to do so and not the second respondent, who is subordinate to the first respondent, nor any other official of the respondent – NLC, including General Superintendent (Medical).

26. Insofar as the claim of the respondents that the annexing of internal notes and communication of the answering respondent by the petitioner with the writ petition shows serious unbecoming act on the part of the petitioner, firstly it is to be noted that the internal communications/notes as annexed to the writ petition are neither confidential or privileged communications, for the respondents' to claim that the petitioner could not have got hold of the same. It is also pertinent to note that the internal notes/communications relate to consideration of the request made by the petitioner for sanction of Special Disability Leave and does not relate to any functioning of the respondent organisation. Since, the internal notes and communications relate to consideration of the request made by the petitioner, it is but natural that when the same is communicated by the General Manager of NLC vide his letter dated 29.06.2012 to the Chief Executive Officer, NTPL, the petitioner could have asked for a copy to be furnished to him in order to follow up with the concerned department for being granted necessary monetary benefits. Thus, this Court sees



no valid ground in the objection taken by the respondents to the petitioner possessing copies of the internal notes/communication pertaining to sanction of his Special Disablement Leave.

27. On the other hand, the objection taken by the respondent in this regard, only goes to show that the respondents wanted to cover up their action by taking the said objection in order to prevent this Court questioning them and going into the details of the matter.

28. Thus, the aforesaid conduct on the part of the respondents, which claims itself to be a Navratna company i.e. a high-performing public sector undertaking, enjoying the operational freedom granted to it by the Government requires it, to maintain high standards of transparency in its conduct.

29. In the light of the aforesaid discussions, since, the appeal filed by the petitioner against the order of the second respondent dated 30.09.2011 having been approved by the proceedings dated 19.06.2012 under the signature affixed by the first respondent on 25.06.2012, the impugned proceedings dated 26.07.2013 as issued by the second respondent stating that the appeal filed by the petitioner on 18.06.2012 having been rejected by the competent authority cannot be sustained. Further, on account of the appeal filed by the petitioner having been allowed by the first respondent, by the proceedings dated

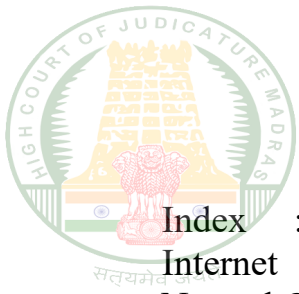


19.06.2012 signed on 25.06.2012, the proceedings dated 30.09.2011 of the second respondent refusing to sanction Special Disablement leave to the petitioner for a period of 165 days i.e. from 27.06.2010 to 08.12.2010, would have to be held as no more valid, for the second respondent to claim that the said order having attained finality.

30. In view of the above, the impugned proceedings dated 26.07.2013 of the second respondent, is set aside. Further, the original order of the second respondent dated 30.09.2011 having merged into the proceedings dated 19.06.2012, as considered and approved by the first respondent on 25.06.2012, the claim of the petitioner for sanction of Special Disablement Leave is to be considered as having been accepted and thus, the petitioner is entitled to the benefits attached to the said sanction in terms of the Employees Compensation Act, 1923.

31. Accordingly, the writ petition is allowed in terms of the above observations. No order as to costs. Consequently, connected miscellaneous petitions are closed.

**24-09-2026**



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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

Speaking : Non Speaking Order

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**To**

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Director, Neyveli Lignite Corporation Ltd,  
Neyveli, Cuddalore District.
2. The Chief Executive Officer,  
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**T.VINOD KUMAR J.**

**KKD**

Pre-delivery Order in  
**WP No. 7466 of 2017**

**24-09-2026**