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WA No. 2434 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30-07-2026

Pronounced on : 09-09-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 2434 of 2023

K.S.Mani

..Appellant

Vs

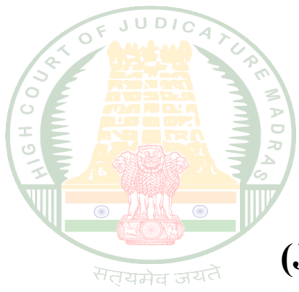
1. The Board,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Rep. by its Secretary (A/c)
Secretariat, 144, Anna Salai,
Chennai -600 002.
2. The Chairman and Managing Director,
Tamil Nadu General and Distribution
Corporation Ltd.,
Secretariat, 144, Anna Salai,
Chennai 600 002.

..Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, seeking to set aside the order of the learned Judge, dated 06.11.2020 passed in WP No.15730 of 2013 and allow the Writ Appeal.

For Appellant : Ms.D.Geetha

For Respondents: Mr.K.Raj Kumar,
Standing Counsel for TANGEDCO
for R1 & R2



Judgment

(Judgment of the Court was delivered by N.Senthilkumar J.)

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The present intra Court Appeal is filed challenging the order passed in WP No.15730 of 2013, dated 06.11.2020.

2. The brief facts of the case are as follows:

The writ petitioner who is the appellant herein had joined as Assistant Engineer in Tamil Nadu Electricity Board [now renamed as Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)] on 20.10.1976 and he was promoted to various levels and had reached the post of Executive Engineer, during which disciplinary proceedings were initiated in accordance with Regulation 8(b) of the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations. Hence, the appellant was not permitted to retire on attaining the age of Superannuation on 30.04.2006. Subsequently, a Charge Memo in Memorandum No.31516/A5/A52/2006-21, dated 12.05.2008 has been issued on the appellant, which contains the following three charges:

CHARGE-I:

That Thiru K.S.Mani, then Executive Engineer/Operation/ 230 KVSS/ Shenbagaramanapurur (now under suspension) has acquired movable and immovable properties in his name and in the name of his family members during the period between 23.12.1998 and 29.7.2004 to the tune of Rs. 10,74,863/- which are



disproportionate to his known sources of income.

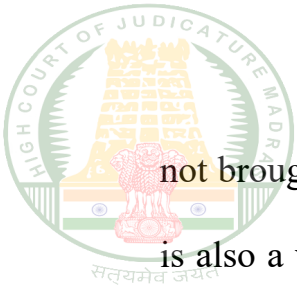
CHARGE-II:

That Thiru K.S.Mani, Executive Engineer/ Operation/230 KVSS/ Shenbagaramanpudur has failed to obtain the previous sanction of the prescribed authority to permit his son Thiru S.M.Kannan to accept gift in the form of house sites and houses and thereby violated the provisions laid down under regulation 9(1) of the Tamil Nadu Electricity Board Employees' Conduct Regulations.

CHARGE-III:

That Thiru K.S.Mani, Executive Engineer/ Operation/230 KVSS/ Shenbagaramanpudur has failed to bring to the notice of the prescribed authority in acquiring the movable and immovable properties during the year 2002, thereby violated the provisions laid down under regulation 13(1) and 13(2) of the Tamil Nadu Electricity Board Employees' Conduct Regulations.

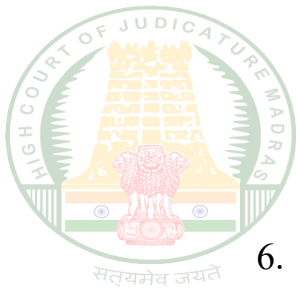
3. On perusal of the above charges, it reveals that the charges have been framed on the ground that the movable and immovable properties stood in the name of the appellant and his family members during the period between 23.12.1998 and 29.7.2004 to the tune of Rs.10,74,863/-, which are disproportionate to his known sources of income and without obtaining the previous sanction of the prescribed authority, his son had accepted the gift in the form of house sites and houses which is in contravention to the provisions laid down under regulation 9(1) of the Tamil Nadu Electricity Board Employees' Conduct Regulations and the details of movable and immovable properties are



not brought to the notice of the prescribed authority during the year 2002 which is also a violation of the provisions laid down under regulation 13(1) and 13(2) of the Tamil Nadu Electricity Board Employees' Conduct Regulations.

4. In this regard, the appellant was issued with a show cause notice calling for an explanation to which the appellant had submitted his explanation. Being not satisfied with the explanation, the respondent, appointed an enquiry officer and an enquiry was conducted by examining the witnesses and the documents relied on by the prosecution. The enquiry report was furnished to the appellant and the show cause notice was issued calling for further explanation. The appellant had given his explanation. Thereafter, the enquiry officer submitted his report, based on which, the 2nd respondent has passed an order of removal from service, vide (Permanent) CMD TANGEDCO Proceedings No.29, order dated 19.02.2011.

5. It is also alleged that, apart from the above charge memo, dated 12.05.2008, the respondent had earlier issued a charge memo dated 05.03.2005, framing two charges against the appellant with regard to the properties purchased without prior intimation to the respondent / Department. However, the charges were dropped upon acceptance of the explanation submitted by the petitioner.



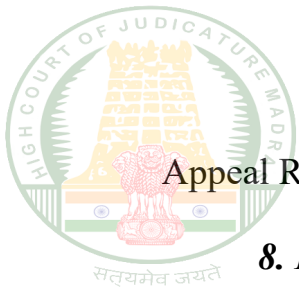
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6. The appellant had preferred an appeal before the first respondent on 23.03.2011 against the order of the 2nd respondent, dated 19.02.2011 whereby he was removed from service. However, the same came to be rejected on 28.09.2011. The appellant had challenged the rejection of appeal in W.P.No.26572 of 2011 before this Court and sought a direction to the 2nd respondent to permit him to retire from service with effect from 30.04.2006. This Court by an order dated 04.02.2013, set aside the order of removal of the petitioner from service, dated 19.02.2011 and remitted the matter back to the 1st respondent for fresh consideration of the appeal on merits and to pass speaking order.

7. Pursuant to the said order, the 1st respondent / Board had once again rejected the appeal vide order dated 20.05.2013, taking into consideration the representation submitted by the appellant, against which he has filed the writ petition which is impugned in this order.

8. Heard the learned counsel on either side and perused the materials available on record.

9. Before going into the merits of the case, let us examine the scope of Regulation 8(b) of Tamil Nadu Electricity Board Employees' Discipline and



Appeal Regulations. The said Regulation is extracted hereunder:

8. Procedure for imposing Penalties:

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(b) (i) In every case where it is proposed to impose on an employee any of the penalties in items (iii), (v), (vi) and (vii) in regulation 5, he shall be given a charge sheet setting forth the grounds on which it is proposed to take action and any other circumstances which it is proposed to take into consideration in passing orders on the case. He shall be required to answer the charge or charges in a written statement within a reasonable time not exceeding one month and also to state whether he desires an oral enquiry or to be heard in person or both. An oral enquiry shall be held if the employee desires such inquiry, or if so directed by the authority concerned. Even if a person charged has waived an oral inquiry, such inquiry shall be held by the authority concerned in respect of charges which are not admitted by the person charged and which can be proved only through the evidence of witnesses. At that inquiry, oral evidence shall be heard as to such of those allegations as are not admitted. The employee shall be permitted to produce witness in his defence and cross examine any witness on whose evidence the charge rests. The officer conducting the inquiry may, for special and sufficient reasons to be recorded in writing, refuse to call a witness. The enquiring officer shall ask, in writing the delinquent employee immediately after the enquiry is over, whether he had a reasonable opportunity of presenting his case or if he has any complaint in this regard. If there is any complaint in this regard, the enquiring officer will examine the complaints and set right the



matter. If it is considered that the alleged denial of reasonable opportunity is made with a view to delay the disciplinary proceedings, the enquiring officer will be competent to ignore the complaint and the reasons for not complying with the request should be recorded. After the inquiry has been completed, the person charged shall be entitled to put in, if he so desires, a further written statement of his defence, whether or not the person charged desired or had an oral enquiry, he shall be heard in person at any stage if he so desires before passing of final orders. A report of the enquiry or personal hearing (as the case may be) shall be prepared by the authority holding the enquiry or personal hearing whether or not such authority is competent to impose the penalty. Such report shall contain a sufficient record of the evidence, if any, and a statement of the findings and the grounds thereof.

“Provided that the Board employee may take the assistance of any retired Board employee to present the case on his behalf but may not engage a legal practitioner for the purpose unless the inquiring authority is a legal practitioner or the inquiring authority, having regard to the circumstances of the case, so permit.

Explanation. The Board employee shall not take the assistance of any retired Board employee who has two pending disciplinary cases on hand, in which he has to give assistance;”¹

(ii) If the Board employee to whom a copy of the charges together with a statement of the allegation on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case, is

¹Substituted – vide (P) B.P.(FB) No.41 (SB), dt.16.10.2007.



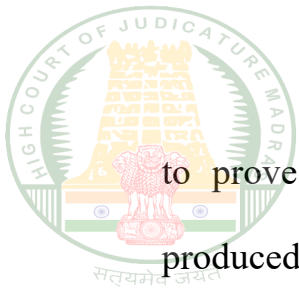
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communicated, does not submit the written statement of his defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this regulation, the inquiring authority may hold the inquiry exparte.

(iii) After the enquiry or personal hearing referred to in this clause has been completed, and if the authority competent to impose the penalty is of the opinion, on the basis of the evidence adduced during the inquiry, that any of the penalties specified in Regulation 5 should be imposed on the person charged, it shall before making an order imposing such penalty furnish to him a copy of the report of the inquiry or personal hearing or both as the case may be, and call upon him to submit his further representation, if any. within a reasonable time, not exceeding fifteen days. Any representation received in this behalf within the period shall be taken into consideration before making any order imposing the penalty provided that such representation shall be based on the evidence adduced during the inquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed.”

10. The enquiry report produced reveals that all the charges were proved with clear findings, after taking into consideration the explanation given by the appellant herein and the documents furnished in support of the contention raised on behalf of the appellant.

11. Though it is the specific stand of the appellant that there is no material



to prove the charges as levelled against him, the documents which were produced by the prosecution to show that the appellant's income is disproportionate to the known source of income for the properties, which stands in his name and his family members, was not disproved.

12. When the Tamil Nadu Electricity Board Employee's Discipline and Appeal Regulations contemplates that an enquiry officer has authority to conduct enquiry and to pass final orders notwithstanding to make his recommendation based on which the 2nd respondent has taken a decision to impose punishment of removal from service, the appellant cannot take a stand that fair opportunity was not afforded to him, since the appellant himself has taken part in the enquiry. However, he failed to produce documents to substantiate his case and the Enquiry Officer has dealt with the allegation raised by the authority and the defence taken and made a recommendation for removal of the petitioner from service. The Writ Court has considered the above and in paragraphs 46 to 49, it was held as under:

“46. Though such a stand is taken by the petitioner, however, it is the stand of the respondents, as is revealed through the enquiry report that no documentary materials have been placed by the petitioner to prove the source of income for the purchase of the movable and immovable properties by the petitioner's wife and son. Mere assertion on the part of the petitioner cannot partake the character of proof to come to the conclusion that the wife and son of the petitioner had individual income from their own sources to purchase the properties in their names. The transactions between the wife of the petitioner and



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his brother with regard to receipt of amounts that is a direct off-shoot from the family properties should be proved by materials and accepting any oral statement as to the same without there being documentary proof would not only be too large an ask at the hands of this Court, but would be against the requirement of evidence, which is a necessity to prove the innocence of the petitioner, more so in a case involving disciplinary action under the corruption laws. Further, as already held, the rental income derived from the ancestral properties of the petitioner, the share of which has been given to the wife of the petitioner, would not make the said amount as income at the hands of the petitioner's wife.

47. In this regard, Section 106 of the Indian Evidence Act is being pressed into service by the learned standing counsel for the respondents, who vehemently contended that the burden lies on the petitioner to prove the fact, which is especially within his knowledge. It is the stand of the respondents that the source of income of the petitioner's wife and son being within the exclusive knowledge of the petitioner, the petitioner was required to prove the same through requisite documentary evidence relating to the transactions, in which monetary aspect is involved.

48. It is the consistent stand of the petitioner that his wife and son were having independent sources of income from which the properties have been purchased by them. Merely making an assertion that they were having income of their own would not suffice to prove the case of the petitioner as to the independent source of income of his wife and son. The petitioner is bound to place documentary proof regarding receipt of income, as the said receipts relating to their income was exclusively within the knowledge of the petitioner.

49. Further, it is also evident from the records that though the petitioner has examined D.W.1 and D.W.2, viz., his brother and friend to prove about the payments made to his wife, however, even thereto, the evidence is merely oral and there are no



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documents placed to prove that the petitioner's wife was the recipient of amounts from D.W.s 1 and 2 towards receipt of rental income from the ancestral properties of the petitioner as also the return of the loan availed by D.W.2. Mere oral evidence cannot partake the place of documentary evidence, when in certain phases of the matter, the documentary evidence would have more weightage than the oral evidence. Particularly in cases of this nature, where the source of income is an issue, documentary evidence takes precedence over oral evidence and oral evidence, if at all, is only supplementary. Therefore, in the absence of any tangible and credible documentary evidence supporting the stand of the petitioner, the conclusion arrived at by the enquiry officer cannot be found fault with."

13. There is a clear distinction with regard to the domestic enquiry. The law is well settled that the preponderance of probabilities are sufficient to impose punishment on the delinquent based on the charges levelled against him.

14. The High Court in exercise of jurisdiction under Article 226 of the Constitution of India, has to examine whether enquiry was conducted or whether the opportunity was given to the appellant.

15. Admittedly, the appellant has taken part in the enquiry and has failed to submit his defence by way of marking his documents, however, he himself participated in the domestic/oral enquiry and therefore, the claim that no fair opportunity was given to the appellant itself disproved through the findings of the enquiry report.



16. With regard to the scope of judicial review, the High Court cannot sit and review the entire proceedings which were conducted by the enquiry officer.

The enquiry report clearly reveals that no documents were produced by the appellant during the enquiry. In absence of such documentary evidence, the Enquiry Officer considered the oral enquiry in detail and arrived at a conclusion. Thereafter, the disciplinary authority passed an order of removal from service after affording an opportunity to the appellant.

17. The Hon'ble Supreme Court in the case of *State of Karnataka and Anr. vs. Umesh* reported in (2022) 6 SCC 563 had held as under:

21. The Court also held that:

(C.Nagaraju case SCC p372, para 13)

“13. Having considered the submissions made on behalf of the Appellant and the Respondent No.1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a Criminal Court does not preclude a Departmental Inquiry against the delinquent officer. The disciplinary authority is not bound by the judgment of the Criminal Court if the evidence that is produced in the Departmental Inquiry is different from that produced during the criminal trial. The object of a Departmental Inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a Departmental



Inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the Inquiry Officer in the disciplinary proceedings, which is different from the evidence available to the Criminal Court, is justified and needed no interference by the High Court."

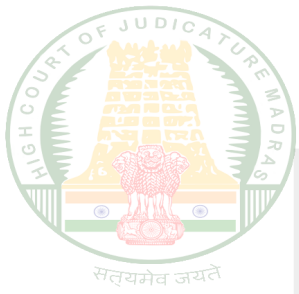
22. *In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:*

- (i) the rules of natural justice have been complied with;*
- (ii) the finding of misconduct is based on some evidence;*
- (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and*
- (iv) whether the findings of the disciplinary authority suffer from perversity; and*
- (vi) the penalty is disproportionate to the proven misconduct.*

18. The Hon'ble Supreme Court in yet another case in ***Chatrapal Vs. State of Uttar Pradesh and anr.*** reported in **2024 SCC Online SC 146** had held as under:

17. In ***P. Gunasekaran*** (supra), the following has been held by this Court in para nos. 12, 13..:

"12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary



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proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*



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(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

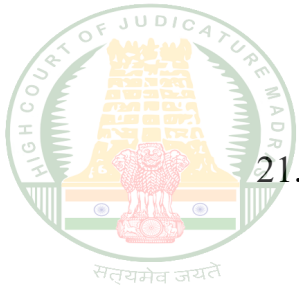
(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

19. In the above case, the Hon'ble Supreme Court had categorically stated that the scope of judicial review in respect of punishment imposed by the disciplinary authority is very limited. High Court cannot exercise its extraordinary jurisdiction to take a different view than that of views taken by Disciplinary Authority and Appellate Authority, unless the proportionality of punishment shocks the conscience of the Court.

20. In the present case on hand, all these factors have been considered by the Enquiry Officer, which was confirmed by the disciplinary authority by its detailed order. The Writ Court has examined all these parameters and had dismissed the writ petition. We, therefore, find no infirmity in the order passed by the learned single Judge in confirming the order of the disciplinary authority.



21. In the result, the Writ Appeal stands dismissed. No costs.

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(S.M.S.,J.)

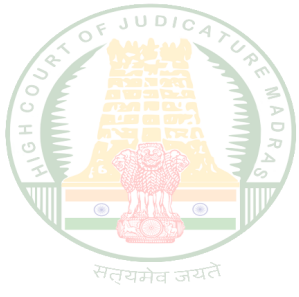
(N.S.,J.)

09-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Secretary (A/c),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Secretariat, 144, Anna Salai,
Chennai 2.
2. The Chairman and Managing Director
Tamil Nadu General and Distribution
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WA No. 2434 of 2



**S.M.SUBRAMANIAM J.
AND
N.SENTHILKUMAR J.**

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Pre-delivery Judgment in

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