

**P. Mari Vs. the Chief Engineer, Tamil Nadu Electricity Board and anr.**

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**Court :** Chennai

**Decided On :** Mar-02-1995

**Reported in :** 1995(1)CTC594; (1996)ILLJ612Mad

**Judge :** Kanakaraj, J.

**Acts :** [Constitution of India](#) - Article 311(1)

**Appeal No. :** W.P. No. 13641/1992

**Appellant :** P. Mari

**Respondent :** The Chief Engineer, Tamil Nadu Electricity Board and anr.

**Advocate for Def. :** C.S. Krishnamoorthy, Adv.

**Advocate for Pet/Ap. :** G. Jermiah, Adv. for ;V. Gunasekaran and P. Krishnan

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**Kanakaraj, J.**

1. The petitioner entered service as a Junior Assistant in the office of the second respondent. After nearly 29 years of service, the petitioner faced a charge memo dated December 17, 1990. As many as five charges were framed against the

petitioner under five different charge memos. The first charge memo related to unauthorised absence from duty for nearly one month and consequences thereof. The second charge memo was issued on June 16, 1989. This related to lethargy in the performance of his duties and dis-obedience of lawful orders. The third charge memo was issued on October 27, 1989. This related to the ledgers not having been tallied with the accounts department, non-verification of agreements for July, 1990 and for having placed an indent for purchase of stationery contradictory to Rules. There was also a fourth charge memo on January 8, 1990 for having taken unauthorised leave from November 27, 1989 to December 7, 1989. There was a fifth charge memo dated May 10, 1990 which again related to absence from duty. An enquiry was conducted and some of the charges were held to be proved, while some others were held not to have been established by the respondents. The punishing authority imposed a punishment of dismissal on May 20, 1991. The appeal against the said order was also rejected on January 21, 1992. The writ petition is to quash the order of punishment as confirmed in the appeal.

2. Before me, Mr. Jermiah, learned counsel for the petitioner raised only two contentions. The first is that the disciplinary proceedings had not been initiated by the punishing authority, but by an authority lower in rank than the punishing authority. According to him, this vitiates the disciplinary proceedings and in support of this proposition, reliance is placed on a Judgment of the Division Bench in Writ Appeal No. 1376 of 1991 dated February 4, 1992. The second argument is that all the charge memos issued on different dates have been consolidated together and the punishment has been imposed on the basis of such consolidation. According to the petitioner, this has prejudiced the interest of the petitioner.

3. The impugned order dated May 20, 1991 shows that the first three charge memos had been issued by the Assistant Accounts Officer, the fourth by the Assistant Divisional Engineer and the fifth by the Assistant Executive Engineer. Under the relevant Rules which are contained in Annexure 1 to the Board's proceedings No. 61 dated March 10, 1994 in respect of an employee coming within the distribution systems the authority competent to suspend and frame charges and the authority competent to impose major punishments are set out as

follows:-

#### Annexure-I

Statement showing the Authority competent to suspend, Frame Charges and to Impose punishments on the workmen covered by (i) the Tamil Nadu Electricity Board Standing Orders in respect of workmen other than those engaged in clerical work and (ii) the Standing Orders for the workmen engaged in clerical Departments of the Tamil Nadu Electricity Board.

(Refer Table at the end)

No doubt, in the Division Bench Judgment cited by the petitioner, namely; Writ Appeal No. 1376 of 1991 dated February 4, 1992, the Court has taken the view as follows:

'When a disciplinary authority to impose a particular punishment is set forth in the service rule, it is only that authority, in the absence of rules empowering delegation, is competent to initiate and frame the charges'. The Division Bench upheld the order of the learned single Judge as follows; 'In these circumstances, the learned single Judge rightly held the Division Engineer, Polur North Arcot, is not competent to frame charges and initiate disciplinary proceedings against the petitioner and initiation of disciplinary proceedings by the incompetent authority vitiated the entire proceedings and therefore, the impugned proceedings are liable to be quashed. We cannot take exception to the view taken by the learned single Judge.'

4. As against the above contentions, learned counsel for the respondents argues that in this particular case even a reference to the Rules shows that the immediate superior can initiate disciplinary proceedings. I have already quoted the Rules. There must be clear indication that the punishment alone has to be imposed by the named punishing authority and the disciplinary proceedings can be initiated by some other authority. Therefore, it is not possible to find fault with the initiation of disciplinary proceedings. In fact, the Supreme Court has now taken the view that so long as the service Rules do not contain a Rule that the departmental

proceedings should be initiated only by the punishing authority, the same cannot be nullified under Article 311(1) of the [Constitution of India](#). Reference may be usefully made in P. V. Srinivasa Sastry v. Comptroller and Auditor General (1993-I-LLJ-824)(SC) : : (1993)ILLJ824SC and Registrar of Co-operative Societies, Madras v. F.X. Fernando (1994-I-LLJ-819)(SC) : : (1994)ILLJ819SC . Therefore, I reject the first contention of the learned counsel for the petitioner.

5. So far as the next contention is concerned, I am unable to see any prejudice on the part of the petitioner, because the respondents consolidated all the charges and took the entire findings into consideration before imposing the order of punishment. A perusal of the order of punishment shows that the punishing authority has considered each one of the charges and the gravity of the same before concluding that an order of dismissal is called for. What is more the Appellate Authority has also considered the appeal and has given good and valid reasons for rejecting the appeal. The Appellate Authority has referred to the fact that the petitioner had been continuously absenting himself from duty and had suffered punishments on that account. He has pointed out that the petitioner had not taken any steps to rectify himself at any stage. Therefore, he holds that no case had been made out for reducing the punishment. For exercising jurisdiction under Article 226 of the [Constitution of India](#), I have no materials before me to interfere with the well considered orders of the punishing authority as well as the appellate authority. Consequently the writ petition fails and is dismissed. No costs.

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