

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA**

**+ Writ Petitions No. 6614 of 2010 and 26952 of 2019**

% Date: 23.12.2024

**W.P.No. 6614 of 2010**

# The Divisional Engineer Electrical (Operations)  
Northern Power Distribution Company Limited & another  
... Petitioners

**v.**

\$ The Presiding Officer,  
Industrial Tribunal-cum-Labour Court & another.  
... Respondents

**W.P.No. 26952 of 2019**

# Prabhakar Rao  
... Petitioner

**v.**

\$ The Divisional Engineer Electrical (Operations)  
Northern Power Distribution Company Limited & another  
... Respondents

! Counsel for petitioners - Department : Sri Zakir Ali Danish

^ Counsel for 2<sup>nd</sup> respondent workman : Sri V. Narsimha Goud

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➤ HEAD NOTE:

? CASES REFERRED:

1. (1973) 1 SCC 813
2. 2006(2) LLN 439
3. (2010) 10 SCC 539
4. (2018) 7 SCC 670
5. (2010) 2 SCC 772
6. (2008) 8 SCC 236
7. (2010) 13 SCC 494
8. (1993) 4 SCC727
9. 2019(2) ALD 264 (DB)

**HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA****WRIT PETITION No. 6614 OF 2010****AND****WRIT PETITION No. 26952 OF 2019****COMMON ORDER:**

Writ Petition No. 6614 of 2010 was filed by Telangana Northern Power Distribution Company Limited (TGNPDCL) challenging the Award dated 01-09-2009 in I.D. No. 77 of 2007 on the file of the Industrial Tribunal-cum-Labour Court at Warangal. Writ Petition No. 26952 of 2019 was filed by the workman challenging the very same Award, in so far as not granting continuity of service, back wages and other benefits.

2. Parties will hereafter be referred to as 'TGNPDCL' and 'workman' for easy reference.

3. The workman was selected as Village Electrical Worker *vide* Memo dated 03-08-1987. After undergoing training, he was appointed as Village Electrical Worker lby the Sarpanch, Lingampalem Gram Panchayat, Khammam District on temporary basis and thereafter, was appointed as Junior Lineman on contract basis *vide* Memo dated 31-07-2002.

While the things stood thus, he was issued charge sheet dated 19-08-2004 by the Divisional Engineer/Elec. & Enquiry Officer alleging that he demanded and accepted

Rs.2000/- from Gaddam Yakub Reddy, Rs.8,500/- from Sri Palangani Gopal Rao; Rs.8,500/- from Sri Palagiri Venkata Narasaiah and Rs.2,000/- from Sri Vadlamudi Appa Rao; he collected four Demand Drafts on 25-05-2004 from G. Yakub Reddy and Sri V. Appa Rao and Demand Drafts from other consumers but the same were not handed over in the section, thus he misappropriated the amount and finally, gave direct supply to Sri P.Venkata Narasaiah without allotting service connection number.

It is stated, workman submitted explanation dated 09-09-2004 and after conducting enquiry, the Enquiry Officer submitted his report dated 27-09-2004 holding that charges 1 and 3 were held proved and charge No. 2 was not proved. The Divisional Engineer/Elec./O/Sathupally issued show cause notice and removed petitioner from service *vide* order dated 28-12-2004. The workman preferred Appeal against the said order unsuccessfully. Thereafter, he raised I.D. No. 77 of 2007 under Section 2(A)(2) of the Industrial Disputes Act, 1947 (for short, 'the Act') before the Industrial Tribunal-cum-Labour Court at Warangal wherein an *ex parte* order dated 12-06-2008 setting aside the order of removal was passed. The said *ex parte* order was challenged by the NPDCL in Writ Petition No. 11777

of 2008 which was allowed by order dated 12-06-2008 remanding the matter to the Industrial Tribunal-cum-Labour Court, Warangal for fresh consideration. Before the Labour Court, two witnesses were examined on behalf of workman and two on behalf of employer. The Labour Court, by Award impugned, solely on the ground that enquiry was conducted without appointing the Presenting Officer, set aside the removal order and directed the employer to reinstate workman into service as Junior Lineman afresh, without continuity of service, back wages and other attendant benefits.

4. The main contention of workman is that charges were framed by the Divisional Engineer and enquiry was also conducted by him and he submitted report without there being a Presenting Officer and copies of enquiry report were not supplied to him. The Labour Court relying on the judgments in **C. Nagaraja Bhat v. Canara Bank** (1987 Kantij-3-232-1987 (TLS)-1010220 and **Tatachari Y v. Acharya N.G. Ranga Agrl. University** (2000(2)-ALT-210), held that if any enquiry is conducted without appointing a Presentation Officer, it is not justified and the enquiry officer cannot discharge his functions as a prosecutor and judge and therefore, such enquiry has to be quashed. In this case, as submitted by learned counsel for

petitioner, charges were not framed by the Appointing Authority and there was no Presentation Officer appointed during the course of enquiry and by applying the principles laid down in the cited cases, it is very much clear that departmental enquiry is liable to be set aside.

5. While entertaining Writ Petition No. 6614 of 2010, this Court *vide* order dated 08-04-2010 granted interim stay of the Award subject to condition of payment of back-wages to workman under Section 17-B of the Act.

6. In the counter-affidavit, Divisional Engineer Electrical (Operation) states that Writ Petition is not maintainable for it was filed after a lapse of ten years from the date of passing the Award. He did not give any sufficient cause for the said delay, hence, the averment made in the Writ Petition that he handed over file to his advocate to file vacate petition is only an afterthought to cover up the delay and latches; in fact by not questioning the award, petitioner waived his right.

7. Learned Senior Counsel Sri G. Vidya Sagar appearing on behalf of learned Standing Counsel for NPDCL Sri Zakir Ali Danish submits that Labour Court without application of mind had set aside the removal order. He submits that as per Regulation 10(2)(a) of the APSEB Employees' Revised

Conduct Regulations, the Enquiry Officer himself has to frame the charges. The workman having participated in the enquiry and having filed appeal against the removal order has stopped from raising objection with regard to appointment of enquiry Officer and framing of charges. According to learned Senior Counsel, Enquiry Officer is only a fact-finding authority to elicit the truth and no injustice is caused to workman in this process. He relied on the judgments of the Hon'ble Supreme Court ***in Workmen v. Firestone Tyre and Rubber Co.***<sup>1</sup> and of High Court of Andhra Pradesh in ***K.S. Kumari v. Government of A.P.***<sup>2</sup>.

8. *Per contra*, learned counsel for workman Sri V. Narsimha Goud submits that Enquiry Officer should not act as a prosecutor as well as a judge and his function is to examine evidence presented by department even in absence of delinquent official to see as to whether unrebutted evidence is sufficient to hold that charges are proved. He further argued that no person can be a judge in his own cause and no witness can certify that his own testimony is true. In support of his contention, learned counsel relied on the judgments of the Hon'ble Supreme Court

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<sup>1</sup> (1973) 1 SCC 813

<sup>2</sup> 2006(2) L.L.N.439

in ***Mohd. Yunus Khan v. State of Uttar Pradesh***<sup>3</sup>, ***Union of India v. Ram Lakhan Sharma***<sup>4</sup> and ***State of Uttar Pradesh v. Saroj Kumar Sinha***<sup>5</sup>.

According to learned counsel, workman was not supplied copies of enquiry report, which is nothing but violation of principles of natural justice. In this connection, he relied on the judgments in ***State of Uttaranchal v. Kharak Singh***<sup>6</sup>, ***Punjab National Bank v. K.K. Verma***<sup>7</sup> and ***Managing Director, ECIL, Hyderabad v. B. Karunakar***<sup>8</sup>

Learned counsel further argued that Labour Court having held points 1 to 3 in favour of workman, ought to have allowed continuity of service with all consequential benefits. He relied on the judgment of the High Court of Judicature, Telangana and Andhra Pradesh at Hyderabad in ***Depot Manager, APS RTC, Guntur v. Ch. Suresh Babu***<sup>9</sup>.

9. Having heard learned counsel on either side and having perused the material on record and the Award of the

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<sup>3</sup> (2010) 10 SCC 539

<sup>4</sup> (2018) 7 SCC 670

<sup>5</sup> (2010) 2 SCC 772

<sup>6</sup> (2008) 8 SCC 236

<sup>7</sup> (2010) 13 SCC 494

<sup>8</sup> (1993) 4 SCC 727

<sup>9</sup> 2019(2) ALD 264 (DB)

Labour Court, the points that boil down for consideration before this Court are :

- (i) Whether Labour Court in an Application under Section 2 (A) (2) of I.D. Act, can record a finding that failure to appoint a Presenting Officer would result in setting aside the order of termination?
- (ii) Whether workman is entitled to continuity of service and back wages and other attendant benefits?

10. **Point No.1:** The main grievance of workman is that no person should be a judge of his own cause. In this case, enquiry was conducted by the Enquiry Officer, who farmed charges, he himself acted as Presiding Officer of enquiry. Learned counsel Sri Narsimha Goud has placed before this Court the depositions of complainants, Kiran Kumar, Assistant Engineer and workman as additional material papers. From the depositions, it is clear that Enquiry Officer played the role of prosecutor. Learned Senior Advocate Sri G. Vidyasagar appearing on behalf of NPDCL submits that in terms of the judgment in ***Fire Stone Tyre and Rubber Co. case*** (supra), the Labour Court should go into the validity of the termination order and pass appropriate Award, however, in the present case, the Labour Court granted reinstatement solely on the ground that the Presenting Officer was not appointed in the departmental enquiry. According to him, the Labour Court failed



to appreciate that the workman did not raise the issue of denial of opportunity in the absence of Presenting Officer. He has also not raised any objections with regard to the Enquiry Officer framing charges and conducting enquiry; in the explanation to the show cause notice, after conducting enquiry also, he did not plead any violation of principles of natural justice and bias. Therefore, the Labour Court ought not to have gone into the validity of domestic enquiry and grant relief on the premise that the Presenting Officer was not appointed during enquiry. He further relied on the Full Bench judgment of this Court in ***K. Swarna Kumari's case*** (supra) wherein it was held that there is no violation of principles of natural justice in framing the charges by the Enquiry Officer in accordance with 1963 Rules; the doctrine of prejudice has to be proved and established by the workman. In the absence of such plea, this Court need not go into the validity of the domestic enquiry. Here the case of NPDCL is that workman had never raised the issue of prejudice during the course of enquiry or at the time of passing order of removal.

11. On the other hand, learned counsel for workman heavily relied on the judgment of the Hon'ble Supreme Court

referred to supra. In ***Saroj Kumar Singh's case*** (supra), the Supreme Court held as under:

“ **27.** A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

**28.** An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

**30.** When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.”

12. In ***Mohd. Yunus Khan's case*** (supra), the Hon'ble Supreme Court held as under:

“ **28.** In *Arjun Chaubey v. Union of India* [(1984) 2 SCC 578 : 1984 SCC (L&S) 290 : AIR 1984 SC 1356] a Constitution Bench of this Court dealt with an identical case wherein an employee serving in the Northern Railway had been dismissed by the Deputy Chief Commercial Superintendent on a charge of misconduct which concerned himself, after considering by himself the explanation given by the employee against the charge and after thinking that the employee was not fit to be retained in service. It was also considered whether in such a case, the Court should deny the relief to the employee, even if the Court comes to the conclusion that the order of punishment stood vitiated on the ground that the employee had been guilty of habitual acts of indiscipline/misconduct. This Court held that the order of dismissal passed against the employee stood vitiated as it was in utter disregard of the principles of natural justice. The main thrust of the charges against the employee related to his conduct qua the disciplinary authority itself, therefore, it was not open to the disciplinary authority to sit in judgment over the explanation furnished by the employee and decide against the delinquent. No person could be a judge in his own cause and no witness could certify that his own testimony was true. Anyone who had a personal stake in an enquiry must have kept himself aloof from the enquiry. The Court further held that in such a case it could not be considered that the employee did not deserve any relief from the Court since he was habitually guilty of acts subversive of discipline. The illegality from which the order of dismissal passed by the authority concerned suffered was of a character so grave and fundamental that the alleged habitual misbehaviour of the delinquent employee could not cure or condone it.

**29.** Thus, the legal position emerges that if a person appears as a witness in disciplinary proceedings, he cannot be an enquiry officer nor can he pass the order of punishment as a disciplinary authority. This rule has been held to be sacred. An apprehension of bias operates as a disqualification for a person to act as adjudicator. No person can be a judge in his own cause and no witness can certify that his own testimony is true. Anyone who has personal interest in the disciplinary proceedings must keep

himself away from such proceedings. The violation of the principles of natural justice renders the order null and void.

13. In ***Ram Lakhan Sharma's case*** (supra), the Hon'ble Supreme Court observed thus:

“ **33.** The Division Bench after elaborately considering the issue summarised the principles in para 16 which is to the following effect:

“16. We may summarise the principles thus:

(i) The Enquiry Officer, who is in the position of a Judge shall not act as a Presenting Officer, who is in the position of a prosecutor.

(ii) It is not necessary for the disciplinary authority to appoint a Presenting Officer in each and every inquiry. Non-appointment of a Presenting Officer, by itself will not vitiate the inquiry.

(iii) The Enquiry Officer, with a view to arrive at the truth or to obtain clarifications, can put questions to the prosecution witnesses as also the defence witnesses. In the absence of a Presenting Officer, if the Enquiry Officer puts any questions to the prosecution witnesses to elicit the facts, he should thereafter permit the delinquent employee to cross-examine such witnesses on those clarifications.

(iv) If the Enquiry Officer conducts a regular examination-in-chief by leading the prosecution witnesses through the prosecution case, or puts leading questions to the departmental witnesses pregnant with answers, or cross-examines the defence witnesses or puts suggestive questions to establish the prosecution case employee, the Enquiry Officer acts as prosecutor thereby vitiating the inquiry.

(v) As absence of a Presenting Officer by itself will not vitiate the inquiry and it is recognised that the Enquiry Officer can put questions to any or all witnesses to elicit the truth, the question whether an Enquiry Officer acted as a Presenting Officer, will have to be decided with reference to the manner in which the evidence is let in and recorded in the inquiry.

Whether an Enquiry Officer has merely acted only as an Enquiry Officer or has also acted as a Presenting Officer depends on the facts of each case. To avoid any allegations of bias and running the risk of inquiry being declared as illegal and vitiated, the present trend appears to be to invariably appoint Presenting Officers, except in simple cases. Be that as it may.”

**34.** We fully endorse the principles as enumerated above, however, the principles have to be carefully applied in fact situation of a particular case. There is no requirement of appointment of Presenting Officer in each and every case, whether statutory rules enable the authorities to make an appointment or are silent. When the statutory rules are silent with regard to the applicability of any facet of principles of natural justice the applicability of principles of natural justice which are not specifically excluded in the statutory scheme are not prohibited. When there is no express exclusion of particular principle of natural justice, the said principle shall be applicable in a given case to advance the cause of justice. In this context, reference is made of a case of this Court in *Punjab National Bank v. Kunj Behari Misra* [*Punjab National Bank v. Kunj Behari Misra*, (1998) 7 SCC 84 : 1998 SCC (L&S) 1783].”

Though learned Senior Counsel tried to take cue from the above-said judgment to principles (ii) to (v), and contend that absence of presenting officer by itself will not vitiate the inquiry, wherein the enquiry officer has provided opportunity of cross-examination to delinquent, the entire proceedings are therefore not vitiated, it may be noted that the Hon’ble Supreme Court in the same voice had held that except in simple cases where Enquiry Officer could happen to act as Presenting Officer, to avoid any allegations of bias and running

the risk of enquiry being declared as illegal and vitiated, the present trend appears to be to invariably appoint Presenting Officer. In the present case, the Enquiry Officer is the one who framed the charges, examined witnesses and submitted enquiry report and admittedly, delinquent employee has not cross-examined all those witnesses who were examined in chief by the Enquiry Officer. At the cost of repetition, this Court would like to redraw the attention to the following paragraph:

“ Whether an Enquiry Officer has merely acted only as an Enquiry Officer or has also acted as a Presenting Officer depends on the facts of each case. To avoid any allegations of bias and running the risk of inquiry being declared as illegal and vitiated, the present trend appears to be to invariably appoint Presenting Officers, except in simple cases. Be that as it may.”

14. In this case, if the charges are held to be proved, punishment could go up to removal from service, therefore, the same cannot be categorised as ‘simple case’ to do away with a single Enquiry Officer acting as Presenting Officer himself. Furthermore, the record does not disclose that workman has the opportunity to cross-examine the Assistant Engineer to whom complaints were said to have been given.

15. Further, in **Arjun Chaubey v. Union of India**<sup>10</sup>, a Constitution Bench of the Supreme Court held that ‘anyone who

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<sup>10</sup> (1984) 2 SCC 578

had a personal stake in an enquiry must have kept himself aloof from the enquiry'. In view of the above said legal position, this Court is in full agreement with the learned counsel for workman that no person should be a judge of his own cause, hence, the Award of the Labour Court insofar as reinstating the workman on the ground that Enquiry Officer and Presenting Officer are one and the same cannot be interdicted with.

16. Another aspect which has to be dealt with is, Enquiry Officer did not provide copies of enquiry report to workman, which is nothing but violation of principles of natural justice and also such conduct prejudice the workman since he was denied opportunity to make submissions on adverse findings and prove his innocence. In this regard, learned counsel places reliance on the judgment in **B. Karunakar's case** (supra) wherein the Hon'ble Apex Court held as under:

“ Hence it has to be held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has right to receive a copy of the inquiry Officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the Inquiry Officer's report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

Hence the incidental questions raised above may be answered as follows:

(i) Since the denial of the report of the Inquiry Officer is a denial of reasonable opportunity and a breach of the principles of natural justice, it follows that the statutory rules, if any, which deny the report to the employee are against the principles of natural justice and, therefore, invalid. The delinquent employee will, therefore, be entitled to a copy of the report even if the statutory rules do not permit the furnishing of the report or are silent on the subject.

(ii) The relevant portion of [Article 311\(2\)](#) of the Constitution is as follows: "(2) No such person as aforesaid shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges."

Thus the Article makes it obligatory to hold an inquiry before the employee is dismissed or removed or reduced in rank. The Article, however, cannot be construed to mean that it prevents or prohibits the inquiry when punishment other than that of dismissal, removal or reduction in rank is awarded. The procedure to be followed in awarding other punishments is [laid down in](#) the service rules governing the employee. What is further, [Article 311\(2\)](#) applies only to members of the civil services of the Union or an all India service or a civil service of a State or to the holders of the civil posts under the Union or a State. In the matter of all punishments both Government servants and others are governed by their service rules. Whenever, therefore, the service rules contemplate an inquiry before a punishment is awarded, and when the Inquiry Officer is not the disciplinary authority the delinquent employee will have the right to receive the Inquiry Officer's report notwithstanding the nature of the punishment.

(iii) Since it is the right of the employee to, have the report to defend himself effectively, and he would not know in advance whether the report is in his favour or against him, it will not be proper to construe his failure to ask for the report, as the waiver of his right. Whether, therefore, the employee asks for the, report or not, the report has to be furnished to him.



(iv) In the view that we have taken, viz., that the right to make representation to the disciplinary authority against the findings recorded in the inquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law [laid down in Mohd. Ramzan Khan's case \(AIR 1991 SC 471\)](#) (supra) should apply to employees in all establishments whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceeding or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in question, the delinquent employee should have the benefit of the report of the Inquiry Officer before the disciplinary authority records its findings on the charges levelled against him. Hence question (iv) is answered accordingly.

17. In ***Kharak Singh's case*** (supra), the Hon'ble Apex Court relied on the judgment in ***B. Karunakar's case*** wherein it was also held as under:

“ Hence, when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges leveled against him. The right is a part of the employee's right to defend himself against the charges leveled against him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.”

18. In **K.K. Verma's case**(supra), the Hon'ble Supreme Court, at para 34, held thus:

“ **34.** It was then submitted that non-supply of enquiry report is inconsequential if the employee does not show as to how he is prejudiced thereby. *Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] , *S.K. Singh v. Central Bank of India* [(1996) 6 SCC 415 : 1997 SCC (L&S) 39] and *Haryana Financial Corpn. v. Kailash Chandra Ahuja* [(2008) 9 SCC 31 : (2008) 2 SCC (L&S) 789] were relied upon in support. There cannot be any grievance with respect to the proposition. In the present case, however, we are concerned with a situation where the finding of the enquiry officer on a charge has been reversed by the disciplinary authority, which was not the case in any of the three cases. Besides, by not giving the enquiry report and the adverse order of the disciplinary authority, the respondent was denied the opportunity to represent before the finding of guilt was arrived at and thereby he was certainly prejudiced.”

19. In view of the above legal precedents, it is to be held that since workman was not provided with report of the Enquiry Officer and also in view of the above legal precedents, it is to be concluded that he was denied reasonable opportunity and breach of principles of natural justice.

20. **Point No.2:** As regards the claim of workman to grant continuity of service, back wages and other attendant benefits is concerned, learned counsel for workman relies on the judgment of the Division Bench of the High Court for the State of Telangana and Andhra Pradesh in **Ch. Suresh Babu's case** (supra) and contends that when removal is held to be illegal, the

Labour court ought to have granted continuity of service, back wages and other attendant benefits also. In the said judgment, the Division Bench taking into consideration the judgments of the Hon'ble Apex Court in ***J.K. synthetics Ltd. v. K.P. Agrawal***<sup>11</sup> and ***Deepali Gundu Surwase v. Kranti Junio Adhyapak Mahavidyalaya***<sup>12</sup> held that the settled legal principle that still holds the field is that if the termination from service is shown to be illegal and the employee/workman concerned was regularly appointed and had put in substantial service, he would be entitled to full back wages subject to his not having been gainfully employed after his wrongful termination from service. Admittedly, workman pleaded in the Writ affidavit that he regained unemployed as he could not get any employment in spite of his best efforts. In the light of the same, this Court is of the opinion that workman is entitled to continuity of service, back wages and other benefits.

21. NPDCL in their counter filed in Writ Petition No. 26952 of 2019 stated that workman approached this Court after lapse of ten years. Workman answered the said delay stating that after the interim order dated 08.04.2010, he handed over file to his earlier advocate to file vacate stay application and

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<sup>11</sup> (2007) 2 SCC 433

<sup>12</sup> (2013) 10 SCC 324

separate Writ Petition but he came to know that he has not filed the same. Be that as it may, in the light of the settled legal position, this Court holds that workman is entitled to continuity of service back wages and other attendant benefits.

22. In the result, Writ Petition No. 6614 of 2010 is dismissed. Writ Petition No. 26952 of 2019 is allowed. TGNPDCL is therefore, directed to award continuity of service, back wages and other attendant benefits to workman forthwith. No costs.

23. Consequently, miscellaneous Applications, if any shall stand closed.

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**NAGESH BHEEMAPAKA, J**

23<sup>rd</sup> December 2024

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