

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2015

CORAM

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR. JUSTICE T.MATHIVANAN

W.P.Nos.3167 & 3168 of 2013

E.Jagan Petitioner in
W.P.No.3167 of 2013
P.N.Mahendiran ... Petitioner in
W.P.No.3168 of 2013

vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai, Chennai-1
- 2.The Chief Engineer(Personnel),
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai, Chennai-600 002
- 3.The Superintending Engineer,
Tamilnadu Electricity Board,
Vellore Electricity Distribution Circle,
Vellore District ... 3rd Respondent in
W.P.No.3167/15
- 4.The Superintending Engineer,
Tamilnadu Electricity Board,
Thiruvannamalai Electricity Distribution Circle,
Thiruvannamalai ... 3rd Respondent in
W.P.No.3168/15

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents 1 and 2 to consider and pass orders on the representation of the petitioners dated 18.1.2013 with regard to promotion of the petitioners as Junior Engineer Electrical Grade II on par with his immediate junior, who was promoted as Junior Engineer Electrical Grade II, in the light of the order passed in W.P.No.43061/2002, W.P.No.39659/04, W.P.No.39660/04 batch, dated 16.12.2010.

For Petitioners .. Mr.S.N.Ravichandran
For Respondents .. Mr.M.Fakkir Mohideen

COMMON ORDER

(Order of the Court was made by V.RAMASUBRAMANIAN,J.)

The petitioners have come up with the above writ petitions seeking a direction to the respondents to consider their representations for promotion to the post of Junior Engineer Electrical Grade II, in the light of the order passed by the learned Judge, setting aside an amendment to the Service Rules.

2. Heard Mr.S.N.Ravichandran, the learned counsel for the petitioners and Mr.M.Fakkir Mohideen, the learned Standing counsel for the respondents.

3. The correctness of the order of the learned Judge, dated 16.12.2010, passed in a batch of writ petitions in W.P.No.43061 of 2002 etc., was questioned in a batch of writ appeals in W.A.Nos.1571 of 2013 etc., batch. These writ appeals came to be disposed of by this Bench by an order dated 22.6.2015. The operative portion of the said order reads as follows:

"27. Therefore all the writ appeals are disposed of to the following effect:

(i) We hold B.P.No.17 dated 05.7.2013 as valid and the order of the learned Judge declaring the said Board proceeding to be bad is set aside.

(ii) However, B.P.No.17 cannot take retrospective effect from 04.4.1987, which is the date on which B.P.No.33 was issued administratively. This is due to the fact that though B.P.No.33 dated 04.4.1987 was followed by other proceedings such as B.P.No.31 dated 12.01.1988, B.P.No.5 dated 26.01.1994, B.P.No.15 dated 05.03.2002 and B.P.No.61 dated 05.11.2002, no amendment to the Tamil Nadu Electricity Board Service Regulations were issued until the issue of B.P.No.17 dated 05.07.2003. Therefore, the attempt made in B.P.No.17 dated 05.07.2003 to give effect to the amendments issued therein from 04.4.1987, on the basis of the executive instructions, cannot be upheld. Hence, it is declared that B.P.No.17 dated 05.07.2003 will take only prospective effect from 05.7.2003.

(iii) In view of the fact that several persons came to be promoted either by orders of Court or by administrative orders, without reference to the prescription contained in the amendment issued on 05.7.2003, we do not wish to upset the promotions already made, as it may lead to another set of

litigations. Therefore, promotions so far made, without reference to the amendment dated 05.07.2003, shall not be reversed.

(iv) There are persons who are similarly placed as those who have got promotions de hors the amendment dated 05.07.2003, on account of the orders issued by this Court both before and after the amendments were struck down by the learned Judge. Since these persons are in no way different from those who have approached Court and obtained orders, their cases may also be considered in exercise of the power of relaxation conferred upon the Board under the Tamil Nadu Electricity Board Service Regulations. Once this is done, these persons who have not been promoted due to the amendment so far, will also become placed on par with those who have been promoted de hors amendment."

4. In view of the above, these writ petitions are also disposed of on the same lines as indicated above. No costs.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
No.144, Anna Salai, Chennai-1
- 2.The Chief Engineer(Personnel),
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Vellore Electricity Distribution Circle,
Vellore District

4.The Superintending Engineer,
Tamilnadu Electricity Board,
Thiruvannamalai Electricity Distribution Circle,
Thiruvannamalai

+1 cc to Mr.M.Fakkir Mohideen, Advocate,Sr.32563.

Kji(co)
krd 16/7

W.P.Nos.3167 & 3168
of 2013



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