

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE V.PARTHIBAN

Writ Appeal No.1245 of 2016

K.Raveendranath

..Appellant/Petitioner

Vs.

1. The Chairman
Tamil Nadu Electricity Board
TANGEDCO, Anna Salai
Chennai 600 002.
2. The Superintendent Engineer Distribution
Chennai Electricity Supply Circle
West Anna Nagar
Chennai 600 040.
3. The Chief Engineer
South Zone
Chennai 600 002.
4. The Executive Engineer, O&M
Tamil Nadu Electricity Board
Maduranthagam
Kancheepuram District.
5. B.Manikandan
6. Arrokiyaraj
7. Pandiyarajan
8. Sasikumar
9. Sekar

..Respondents/Respondents

Appeal under Clause 15 of the Letters Patent filed against the order dated 10.3.2016 made in W.P.No.8959 of 2016. Petition filed under Article 226 of the constitution of India to issue a writ of certiorified Mandamus calling for the records relating to the order dated 24.02.2012 made in NA. Ka.No.

000579/Me.Po/Me/Vu.Ni.A/Ni.PiIII/Ni.Vu1/Ko.thani/12 and the consequential order dated 12.08.2013 made in Memo No. 011769/464/SE /CEDC/W/AAAdmo/Adm. 3/A1/F seniority list of Li/2013 passed by the 2nd respondent and quash the same and direct the respondents 1 to 4 to promote the petitioner as Forman Grade-I on par with his juniors with all retrospective attended benefits

For Appellant : Mr.Pitty Parthasarathy
For Respondents 1 to 4 : Mrs.R.Varalakshmi

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

The writ petitioner is the appellant herein. He has come up with this writ appeal challenging the order of the learned single Judge dated 10.3.2016 dismissing the writ petition on the ground of laches.

2. According to the appellant, he joined the respondent Board as Helper on 24.6.1990. Thereafter, he was promoted as Telephone Operator, which post was converted as Wireman. Subsequently, he was promoted as Line Inspector. On coming to know that his seniority was wrongly fixed, he made a representation to the second respondent on 07.10.2010 to refix his seniority. But, the second respondent without passing any order on the representation of the appellant, fixed the seniority of the respondents 5 to 9, who are juniors to the appellant, above the appellant. On 24.02.2012, the second respondent rejected the request of the appellant to refix his seniority and promoted the respondents 5 to 9 as Foremen Grade I. Hence, the appellant, again made a representation to the second respondent on 20.10.2012, requesting to promote him as Foreman Grade I, after refixing the seniority and subsequently, he made another representation on 12.9.2013. Since no order was passed on the said representations by the second respondent, the appellant filed the writ petition.

3. The learned single Judge, by order dated 10.3.2016, holding that the impugned order was passed on 24.02.2012 and that the appellant had filed the writ petition only in the year 2016, with a delay of three years, which delay was not explained, dismissed with writ petition on the ground of laches. Hence, the present appeal.

4. Heard the learned counsel for the appellant and the learned Standing Counsel for the respondent Board.

5. A perusal of the documents filed by the appellant would show that the appellant had made representations to the second respondent on 20.10.2012 and on 12.9.2013 and was awaiting the order of the second respondent. Since the second respondent had not passed any order on the representations of the appellant, the appellant has approached the Court. Therefore, the period during which the appellant was awaiting the order of the second respondent cannot be termed as delay. Even if it is assumed to be a delay, the said delay cannot be attributed only to the appellant, when the fact remains that the delay was occasioned also due to the failure on the part of the second respondent in considering the representations of the appellant.

6. In the above circumstances, the order of the learned single Judge has to be set aside, since the learned single Judge has failed to take note of the fact that the delay cannot be attributed only to the appellant. However, considering the request made by the learned counsel for the appellant that the representations of the appellant be considered and disposed of, we are of the considered opinion that instead of remanding the matter to the learned single Judge, this Court can direct the second respondent to consider the representations of the appellant.

7. Accordingly, this writ appeal is disposed of, directing the second respondent to consider the representations of the appellant dated 20.10.2012 and 12.9.2013 and to pass orders, in accordance with law, within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, CMP No.16066 of 2016 is closed.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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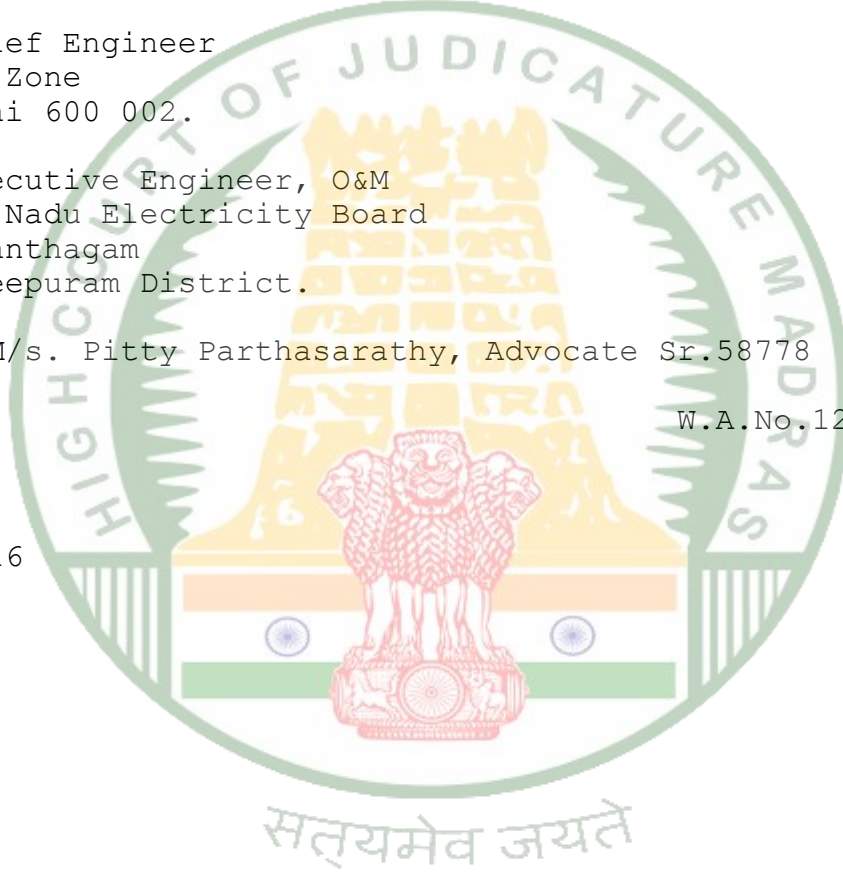
To

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+1 cc to M/s. Pitty Parthasarathy, Advocate Sr.58778

W.A.No.1245 of 2016.

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