

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32979 of 2016

M.Nagarajan

...Petitioner

vs.

1. The Chief Engineer (Personnel)
Tamil Nadu Generation & Distribution Corporation,
No.144, Anna Salai,
Chennai 600 002.
 2. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Coimbatore - 12.
- ...Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the respondents to appoint the petitioner as an Assessor as per the orders of the 1st respondent in Letter No.044476/522/G.26/G.262/2012, dated 16.08.2012 (signed on 23.08.2012) issued as per the direction of this Court in W.P.No.30314 of 2008, dated 05.01.2012 with retrospective effect with consequential promotions.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.P.R.Dhilip Kumar

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondents to appoint him as an Assessor as per the orders of the 1st respondent in Letter No.044476/522/G.26/G.262/2012, dated 16.08.2012 (signed on 23.08.2012) issued as per the direction of this Court in

W.P.No.30314 of 2008 by an order dated 05.01.2012, with retrospective effect with consequential promotions.

2. According to the petitioner, his father, who was working in the respondent Corporation as Selection Grade Driver, died on 26.04.1987. Hence, the petitioner preferred an application to the respondents seeking compassionate appointment. Since his application was not processed, the petitioner filed a Writ Petition before this Court in W.P.No.8216 of 2004. Pending disposal of the same, the petitioner was appointed as an Assessor by the 1st respondent on 06.08.2005. As the petitioner underwent kidney stone operation, he could not join duty till 18.08.2005. Hence, he was referred to the Medical Board and he appeared before the Medical Board on 07.08.2006 and the Medical Board found the petitioner fit for posting. However, he was directed to await re-posting orders.

3. While so, the re-posting order was issued on 28.12.2006 by the 2nd respondent and it was dispatched to a wrong address. Since the petitioner was not aware about the issuance of re-posting orders, he made a representation to the respondents on 10.10.2007 seeking issuance of re-posting orders. While so, on 25.02.2008, the Additional Chief Engineer, Coimbatore passed an order cancelling his appointment as Assessor on the ground for not joining duty for two and half years. Challenging the said order, the petitioner filed a Writ Petition before this Court in W.P.No.30314 of 2008 and after hearing the parties on either side, this Court passed an order on 05.01.2012, the operative portion of which, reads as under:

"7. Hence, I am inclined to allow the Writ Petition as prayed for and the impugned order is set aside and consequently direct the respondents to appoint the petitioner as Assessor immediately not later than two months from the date of receipt of a copy of this order.

8. In the result, the Writ Petition is allowed as prayed for. No costs. Consequently, connected Miscellaneous Petition is closed."

4. However, the 2nd respondent, in complete disobedience of the above order of this Court, by an order dated 30.10.2012, appointed the petitioner as an Assessor Grade - II and directed

him to join duty within 10 days. When the petitioner sought for a clarification that as per the order of this Court, dated 05.01.2012, he ought to have been appointed only as an Assessor and not as an Assessor Grade-II, the 2nd respondent informed the petitioner that the post of Assessor is not readily available and as and when the vacancy arises, he will be posted as Assessor. But, till date, the petitioner is not posted as Assessor even though many vacancies arose thereafter.

5. It is further stated by the petitioner that he joined duty as Assessor Grade - II on 09.11.2012 and continued to work in the same position till date. According to him, had he been appointed as an Assessor, he would have been promoted as Inspector of Assessment by this time. Hence, he made representations on 10.08.2013, 18.11.2014 and 08.03.2016 requesting the respondents to appoint him as an Assessor with retrospective effect. But, so far, no orders were passed posting the petitioner as an Assessor. Having no other alternative, the petitioner has approached this Court by way of the present Writ Petition.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. When the matter is taken up for consideration, learned counsel for the petitioner submitted that the respondents may be directed to consider the petitioner's representation dated 05.03.2016 in the light of the order passed by this Court on 05.01.2012 in W.P.No.30314 of 2008, within a stipulated time.

8. In view of the above, without expressing any opinion on the merits of the case, the petitioner is directed to send a fresh representation to the respondents along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider the petitioner's representation in the light of the order dated 05.01.2012 passed by this Court in W.P.No.30314 of 2008 and pass appropriate orders in accordance with law within a period of six weeks, thereafter.

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With the above direction, this Writ Petition is disposed of.
No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Engineer (Personnel)
Tamil Nadu Generation & Distribution Corporation,
No.144, Anna Salai,
Chennai 600 002.
2. The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Coimbatore - 12.

+1cc to Mr.P.R.Dhilip Kumar, Advocate, S.R.No. 67963

W.P.No.32979 of 2016

VSN (CO)
PSI (28/12/2016)

सत्यमेव जयते
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