

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 21-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28408 OF 2003

The Superintending Engineer,
Tiruvannamalai Elec.Distn.Circle,
Tamilnadu Electricity Board,
Tiruvannamalai.

Petitioner

-vs-

1.M.Kanniappan

2.The Presiding Officer,
Labour Court,
Vellore.

Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records of the second respondent/ Labour Court, relating to the Award, dated 12.03.2002, passed in I.D.No.383 of 1998, and quash the same as illegal and without jurisdiction.

For petitioner : Mrs.R.Varalakshmi
For respondent 1 : Mr.J.Saravanavel

O R D E R

Heard Mrs.R.Varalakshmi, learned counsel for the petitioner, and Mr.J.Saravanavel, learned counsel for first respondent.

2. This Writ Petition has been filed by the Superintending Engineer, Tiruvannamalai Electricity Distribution Circle, challenging the award passed by Labour Court, Vellore, in I.D.No.383 of 1998, by which, the Labour Court directed that first respondent should be granted promotion in the cadre of Foreman, Grade-I, with all monetary benefits with effect from 30.08.1994 and placed in appropriate position in the seniority list, dated 01.11.2001, subject to the orders that may be passed in W.P.No.15196 of 1996.

3. Two contentions have been raised before this Court by the learned counsel for the petitioner, firstly, contending

that the Executive Engineer has submitted a report, stating that the petitioner is not eligible for promotion to the post of Foreman, Grade-I, since the said post involves field work. The second contention is that the Board Proceedings, which were issued by TNEB in B.P.No.106, were stayed and, therefore, the petitioner Board has not effected promotion to the first respondent.

4. As for the first contention as to whether the first respondent was eligible for promotion or not, the Labour Court, took into consideration Ex.M-1, which is a suitability report, prepared by the Assistant Executive Engineer, dated 23.02.1994. Perusal of the said report shows that the first respondent has been found suitable for promotion as Foreman, Grade-I. Curiously, the Executive Engineer, who made an endorsement on 10.08.1995, altered the suitability report prepared by the Assistant Executive Engineer, dated 23.02.1994, by inserting the word "Not" before the words "Suitable for Promotion as Foreman, Grade-I". Heavily commenting on the same, the Labour Court held that it was never the case of the petitioner Board that the first respondent was ineligible for being considered for promotion.

5. With regard to the second issue, the Labour Court pointed out that the Board Proceedings No.106 were stayed by this Court and, subsequently, to get over the effect of the interim order, another Board Proceeding was passed in B.P.No.2, which was also stayed by this Court. The net result was, there was no embargo on considering the first respondent for promotion. This aspect of the matter was thoroughly dealt with by the Labour Court and it has given elaborate reasons to substantiate the relief, that was granted.

6. Thus, taking into consideration the facts and circumstances of the case, the Labour Court moulded the relief in a proper manner, by directing that the first respondent be notionally placed in the promoted post, to be eligible for monetary benefits. The award being a reasoned one and in the absence of any perversity, this Court does not propose to reappraise the factual findings recorded by the Labour Court. As the petitioner has not made out a case for interference with the award passed by the Labour Court, this Writ Petition is dismissed. No costs. Consequently, the connected W.P.M.P.No.34714 of 2003 is closed.

7. Before parting with, it is to be stated that the award is of the year 2002 and the first respondent retired from service on attaining the age of superannuation in the year 2007. The fact remains that the award remained stayed from the year 2003 onwards. Therefore, the petitioner is directed to implement the award and pay monetary benefits to the first

respondent within a period of eight weeks from the date of receipt of a copy of this order.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dixit

To

1.The Presiding Officer,
Labour Court,
Vellore.

2.The Section Officer,
VR Section,
High Court, Madras. [31/05/2016]

+1 cc to Mr.J.Saravanavel Advocate sr.17882

+1 cc to M/s.R.Varalakshmi Advocate sr.18185

W.P.No.28408 OF 2003

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