



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.22424 of 2016

and

W.M.P (MD) No.16055 of 2016

T.Vijayalakshmi

: Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.
 2. The Chief Engineer (Personnel),
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.
 3. The Superintending Engineer,
Dindigul Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
Dindigul Post & District.
- : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the third respondent in his proceedings Ku.No.016434/499/Ni Pi 1/Ni U3/Ko.Thani/2016, dated 15.11.2016 and the consequential order passed in proceedings Ku.No.016434/499/Ni.Pi.1/U3/Ko.Thani/20163-1, dated 15.11.2016 and quash the same and consequently direct the respondents to permit the petitioner to continue as Junior Assistant and to promote the petitioner to the post of Assistant on par with her junior with all attendant and monetary benefits.

For Petitioner

: Mr.M.Saravanakumar

For Respondents

: Mr.R.Dhayalan,
Standing Counsel.

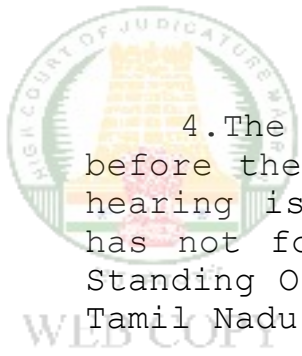
**O R D E R**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus praying to quash the impugned order passed by the third respondent in his proceedings in Ku.No.016434/499/Ni.Pi.1/Ni.U3/Ko.Thani/2016, dated 15.11.2016 and the consequential order passed in Ku.No.016434/499/Ni.Pi.1/U3/Ko.Thani/20163-1, dated 15.11.2016 and consequently to direct the respondents to permit the petitioner to continue as Junior Assistant and to promote the petitioner to the post of Assistant on par with her junior with all attendant and monetary benefits.

2.Heard the learned counsel appearing for the petitioner and the learned standing counsel, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.The brief facts leading to the filing of this writ petition are as follows:

The petitioner studied upto 10th Standard as regular student in Government High School, Landakottai, Dindigul District and appeared for the Public Examination held in the month of April, 1992 and failed. In the mean time, she was appointed as Office Helper in the third respondent office on compassionate grounds on 29.07.1995 and subsequently the Superintending Engineer, Karur permitted her to study B.Com. Degree thorough Distance Education and she completed the same in the year 2007. Thereafter, she completed 10th Standard in the year 2015. Further, she has passed the Departmental Examination of Account Test in the month of May, 2009. Therefore, she has been promoted to the post of Record Clerk and further promoted to the post of Junior Assistant. Now, she is fully qualified for promotion to the post of Assistant. As the respondents have not included her name in the promotion panel for Assistants for the year 2015, she made a representation to the second respondent on 18.06.2015 through proper channel and on receipt of the same, the second respondent by the letter dated 02.07.2015, replied that after completion of 10th Standard, she is entitled for promotion to the post of Assistant. Since she has completed 10th Standard in the month of March, 2015, she made a representation to the respondents seeking for promotion to the post of Assistant (Accounts) on par with her juniors. Contrary to the letter of the second respondent, dated 02.07.2015, the third respondent passed the impugned order dated 15.11.2016. reverting the petitioner from the post of Junior Assistant on the ground that she has not completed the basic qualification and posted the petitioner in the lower post of Record Clerk. Without following the provisions of 20(vi) and 21(iv) and (v) of Standing Orders for Workmen Engaged in Clerical Departments of the Tamil Nadu Electricity Board, the third respondent has passed the impugned order. Over the same, the petitioner has come up with the present writ petition.



4.The learned counsel for the petitioner would submit that before the passing the impugned order of demotion, opportunity of hearing is not given to the petitioner and the third respondent has not followed the provisions of 20(vi) and 21(iv) and (v) of Standing Orders for Workmen Engaged in Clerical Departments of the Tamil Nadu Electricity Board and the same read as follows:

"20.Punishment for Misconduct:

(vi)Demotion to lower post or lower grade.

Note:No workman shall be demoted to any post or grade lower than to which he was initially recruited under the Board.

21.Procedure to be followed in Disciplinary Cases:

(iv)No punishment shall be imposed unless the workman is informed in writing of the alleged misconduct.

(v)The workman shall be given a reasonable time to file a written statement to the charge/charges (which charge notice shall contain the allegations based on which the charge/charges have been framed)".

5.The learned counsel for the respondents would submit that the initial promotion itself has been given without noting the educational qualification of the petitioner and therefore once it is brought to the notice of the authority, it is for them to rectify the mistake and accordingly, the authorities have rectified the same and there is nothing wrong in the impugned order passed by the third respondent.

6.The said contention cannot be accepted as the initial mistake committed by the authorities in not noting down the educational qualifications, would not justify them in reverting the petitioner, without providing opportunity of hearing.

7.The learned counsel for the petitioner would submit that subsequently the petitioner has updated her qualification by passing 10th Standard. The said fact would have come to the notice of the authorities concerned, if opportunity of hearing had been provided to the petitioner. A mere perusal of the impugned order passed by the third respondent would go to show that the reversion order has been passed without giving an opportunity of hearing to the petitioner.

8.Under the stated circumstances, the impugned order of demotion dated 15.11.2016 passed by the third respondent, is set aside and the matter is remitted back to the authority concerned, who will provide an opportunity of hearing to the petitioner and decide the matter afresh. The petitioner is permitted to continue in the service as Junior Assistant till the matter is decided afresh by the authority concerned.



9. The writ petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

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/True copy/

Sd/-

Assistant Registrar ()

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.
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Dindigul Electricity Distribution Circle,
Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
Dindigul Post & District.

+1cc M/S.M.Saravanankumar, Advocate, SR.No.71936

ORDER MADE IN
W.P(MD)No.22424 of 2016
and
W.M.P(MD)No.16055 of 2016
23.11.2016

smn

MK/11.1.2017/4p/5c