

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.13000/2017

K.Nagurpillai

..Petitioner

..Vs..

1.Tamil Nadu Generation and
Distribution Corporation Ltd.,
Rep.by its the Chairman,
144, Anna Salai,
Chennai-2.

2.The Chief Engineer (Personnel)
TANGEDCO Ltd.,
144, Anna Salai,
Chennai-2.

3.The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Nagarkoil-629 901.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to promote the petitioner as Assistant Accounts Officer, w.e.f. 25.06.2016, by extending the benefit of the order passed in W.A.(MD).121 of 2008, dated 01.02.2012 and W.P.No.28673 of 2010, dated 14.03.2012 and implemented in board proceedings in (per) CMD.TANGEDCO Proceedings No.142 dated 02.12.2013.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.Varalakshmi
Standing Counsel (TNEB)

ORDER

By consent, the writ petition is taken up for final disposal.

Heard Mr.S.N.Ravichandran, learned Counsel appearing for the petitioner; Mrs.Varalakshmi, learned Standing Counsel (TNEB) appearing for the respondents.

2.The petitioner is working as Selection Grade Accounts Supervisor in the respondent Corporation and he is due for promotion to the post of Assistant Accounts Officer. The crucial date for preparation of panel for promotion to the post of Assistant Accounts Officer is 25th of March every year and the due date for finalization and publication of panel is 25th April of every year. Pursuant to the letter of the Chief Engineer / Personnel, TANGEDCO addressed to the Chief Engineer concerned, bearing No.093910/795/G.30/G.301/2015-2, dated:06/02/2016, the petitioner made a request to the respondents to consider him for inclusion of his name in the panel prepared for the year 2015-2016, pursuant to which, his name was included in the panel in the crucial date 25.03.2015. However, it was

deferred on account that the petitioner has passed the Accounts Test only after the crucial date, i.e., 20.03.2015 and hence, he could not be promoted to the post of Assistant Accounts Officer and fit to be promoted for the year 2016-2017. The petitioner has made a representation to the respondents setting out the fact that he is due to retire on 31.05.2017 and seeks promotion to the post of Assistant Accounts Officer.

3.It is further submitted that in similar facts and circumstances, the Madurai Bench of this Court, in W.A.(MD) No.121/2008 vide judgment dated 01.02.2012, has dealt with an identical matter and has observed as follows:

".....9.As already pointed out, in the order passed by the second respondent herein on 18.08.2007, the appellant/writ petitioner was informed that since he had qualified himself by passing B.Com. Degree only on 24.05.2006 after the crucial date, his name would be taken up for consideration in the next Panel for promotion to Accounts Supervisor. As far as the claim of the appellant for inclusion of his name in the Panel of 2006-2007 is concerned, on the admitted fact as on the crucial date, the petitioner did not have qualifying degree, which resulted in non-inclusion of his name in the Panel prepared with reference to the crucial date

i.e.20.03.2006. However, the fact herein is that since the drawing of the Panel with reference to the crucial date 20.03.2006 will have validity of one year only, if a Panel is to be drawn for 2007-2008 irrespective of the date of drawing of the promottee list, when the petitioner had qualified himself in June 2006, his name should be considered at least with reference to the cut off dated 20.03.2007. As already pointed out, even if the Panel is drawn long thereafter so to say on 20.03.2007, such a panel of list of candidates will have the cut off date i.e. 20.03.2007. On the admitted fact that the petitioner had himself with qualified with B.Com. On 24.05.2006, as pointed out by the second respondent herein, his name should have been taken up for consideration for the next Panel of Accounts Supervisor.

10.Learned counsel appearing for the respondents pointed out that directing the respondents to include the appellant's name, would result in serious consequences disturbing the promotes. It may be pointed out that the view taken by the Court is not different from what has been taken by the second respondent that is as on 19.09.2006, the appellant had the qualification, a fact, which is not denied herein, in that event legally, the appellant is entitled to have his name included as per the crucial

date, in the Panel drawn for the year 2007-2008. In the circumstances, even though the second respondent pointed out that this was not an issue before the learned Single Judge, yet, going by the very order passed by the second respondent, which was challenged before this Court in W.P.(MD) No.7296 of 2007, this Court deems it fit to direct the respondents to include the petitioner's name in the list drawn with reference to the cut off date on 20.03.2007, and that he should be assigned proper seniority number in the order of considering his candidature for further promotion to the post of Accounts Supervisor."

4.The above observation of the Division Bench of this Court is squarely applicable to the facts of the instant case. The petitioner is admittedly, eligible to be promoted to the post of Assistant Accounts Officer and he was in fact, included in the panel for promotion for the year 2015-2016.

5.Considering the above facts and circumstances, this Court directs the respondents to consider the representation made by the petitioner dated 30.03.2017, in the light of the judgment of the Division Bench, cited supra and pass orders as expeditiously as possible as the

petitioner is to retire on 31.05.2017.

6.With the above direction, the writ petition is disposed of at the admission stage itself. No order as to costs.

18.05.2017

KP

Note: Issue Order Copy on Monday

Index: Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

To

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M.GOVINDARAJ., J

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