

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30636 of 2004

M.Devaraj

...Petitioner

.Vs.

1. The Chief Engineer,
Chief Engineer's Office/Distribution,
Vellore Zone, Vellore-6.
2. The Superintending Engineer,
Thirupattur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Thirupattur - 635 601,
Vellore District.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the proceedings made in Ku.No.18170-684/Ni.Pi.2/Ni.Vu.1/2004-1 dated 01.10.2004 confirming the order made in Ku.No.436/Ni.Pi.2/Ni.Vu.1/2004 dated 08.07.2004 both on the file of the second respondent and quash the same.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.M.Fakkir Mohideen

ORDER

The petitioner was absorbed as Helper on 24.09.1996 based on the recommendation of Hon'ble Justice Khalid Commission Report.

2.Though the petitioner did not possess educational qualification prescribed for absorption to the post of vehicle helper, this petitioner has intentionally produced a document in proof of his age and date of birth and he has also produced a transfer certificate issued by the Head Master, Government Higher Secondary School, Natrampalli. While the petitioner was in service as vehicle helper, a request was made by the petitioner for promotion and he was promoted as driver based on the educational qualification and driving licence produced by

the petitioner.

3. For the purpose of verification of the said educational qualification to promote the petitioner for the post of driver, the certificate produced by the petitioner was sent to the District Educational Officer, Tirupattur and found that the certificate produced by him was false and bogus, which warranted the 2nd respondent to initiate the disciplinary proceedings against the petitioner in the year 2001. Thereafter, he was placed under suspension from 30.07.2001 and a charge memo was also issued for misconduct under Standing Order 31 (2)(a) of the Tamil Nadu Electricity Board Standings Orders, as applicable to this petitioner. Pursuant to the enquiry report holding the charges proved, the petitioner was dismissed from service vide the proceedings of the 2nd respondent dated 23.11.2002. Against the same, the petitioner preferred an appeal to the first respondent and the same was dismissed vide order dated 23.11.2002.

4. The petitioner, aggrieved by the dismissal of the appeal, approached this Court and filed W.P.No.6794 of 2003 and the following direction was issued by this court:

"Following the Bench decision in W.P.No.4941 of 2002 etc., batch, the writ petitioner is directed to make a representation before the Superintending Engineer concerned for follow up action and the representation is to be decided in accordance with the conditions enumerated in the Board's proceedings B.P. (F.B.)No.27 (Administrative Branch), dated 07.11.2002. The Superintending Engineer concerned, on being approached by the writ petitioner, shall afford sufficient opportunity for compliance within the conditions. The arrears of salary, if any payable, will depend upon the orders to be passed in accordance with the above Board's proceedings. The writ petition is disposed of accordingly".

5. As per the direction issued by this Court, the order of suspension from service had been revoked and the punishment of dismissal from service already imposed was modified to that of reduction to the minimum scale of pay for the post held on the date of imposing the punishment for a period of three years which will operate for further increments. Accordingly he was reverted to the original post of vehicle helper.

6. The learned counsel appearing for the petitioner would submit that the petitioner was promoted as driver by the order dated 09.02.2000, as the petitioner was in possession of

educational qualification as well as the technical qualification i.e. driving licence, as required in Regulation 94 of Tamil Nadu Electricity Board Service Regulations. Hence, the order of the respondent is not sustainable.

7.Per contra, the learned counsel appearing for the respondents would submit that the educational qualification is required for the post of driver and based on the certificate produced by the petitioner, the petitioner was appointed as a driver. Subsequently, on verification of the certificate, it was found that the certificate produced by the petitioner is false and bogus one.

8.This Court has considered the submissions made by the learned counsel for the petitioner as well as the learned counsel appearing for the respondent.

9.On a perusal of the impugned order dated 01.10.2004, the petitioner was found lack of minimum general educational qualification for the post of driver. Based on the direction of this Court, the petitioner was reverted to the original post of helper since the petitioner did not qualify for the post of driver and his reversion to the original post of helper does not call for any interference. In fact, the leniency shown by the respondent cannot be faulted. Hence, this Court does not find any irregularity in the order passed by the respondent.

7.Accordingly, this writ petition is dismissed. No costs.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To.

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Chief Engineer's Office/Distribution,
Vellore Zone, Vellore-6.

2. The Superintending Engineer,
Thirupattur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Thirupattur - 635 601,
Vellore District.

+1 Cc to Mr.S. Doraisamy, Advocate sr 66918.

+1 cc to Mr.Fakkir Mohideen, Advocate sr 67369.

W.P.No.30636 of 2004

SP(16/11/2017)