

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.38913/2016 & WMP.No.33331/2016

Tmt.Jayammal

..Petitioner

Vs

The Superintending Engineer
Tamil Nadu Generation and Electricity
Distribution Corporation, [TANGEDCO]
Workshop Circle, Mettur Dam-1.

..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records relating to the order of suspension passed in Ku.Aa.No.004421/632/Ni.Pi/Vu.3/Ko.Thani/2016 dated 01.11.2016 on the file of the respondent and quash the same.

For Petitioner : Mr.S.Doraisamy
For Respondent : Mr.P.R.Dhilip Kumar

ORDER

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

2. The petitioner would aver that the lands in S.Nos.144/4B2 and 144/4D1, admeasuring to an extent of 0.46.0 Hectares of P.N.Village, belonging to her, were acquired by the respondent / Corporation in the year 1995 and as per the scheme prevailing at that time, in respect of the lands acquired, one of the members of the affected family, will be given employment irrespective of the educational qualification. The petitioner would further aver that since the petitioner was of the opinion that she belong to that category, had submitted an application praying for suitable employment and she was directed to appear for an interview on 27.05.1996 and she produced all the required certificates during the interview. The petitioner was issued with an order of provisional appointment on 20.08.1996, appointing her as a Helper and she was posted to Mettur Workshop Circle, Mettur, on training for a period of one year, on a consolidated pay of

Rs.750/- per month. Thereafter, the petitioner was posted to Central Office at Workshop Circle on 28.08.1996 and the petitioner continues to discharge her duty in that capacity. However, to her shock and surprise, the petitioner was issued with an order on 01.11.2016, placing her under suspension on the ground that she has produced false School Transfer Certificate and a show cause notice was also issued calling upon her to offer explanation as to why the disciplinary proceedings should not be initiated and challenging the legality of the order of suspension, the petitioner came forward to file this writ petition.

3. Mr.S.Doraisamy, learned counsel for the petitioner has drawn the attention of this Court, for the post of Helper/Attender, no educational qualification is prescribed and the petitioner belongs to lower strata of Society and hailing from remote place and not well versed with the proceedings relating to the employment and it is the further submission that the services of the contract workers who were absorbed, had produced the false/bogus educational certificates, came up for consideration before the very same respondents and as per BP.[FB] No.27, Administrative Branch, dated 07.11.2002, the contract labourers who were absorbed and whose educational certificates found to be false, were imposed with the modified order of punishment in stead of dismissal from service in the form of postponement of increment for a period of three years with cumulative effect and though the said proceedings is applicable to the contract labourers who were absorbed as Helpers and who were dismissed/removed from the service, solely on account of the production of bogus certificates, the said proceedings can be made applicable to the petitioner for the reason that the petitioner stand on a better footing as her lands were acquired and she became landless and therefore, prays for appropriate orders.

4. Per contra, Mr.P.R.Dhilip Kumar, learned Standing counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit and would submit that the petitioner somehow managed to procure the Transfer Certificate said to have been issued by Sri Ramakrishna Gurukula High School Chinnathanda, Mettur and on verification it was found to be false and since the petitioner had failed to approach the employer/respondent with clean hands, she was rightly placed under suspension and in the light of the interim order, the respondent is unable to proceed further in the form of disciplinary action and prays for dismissal of the writ petition.

5. The Court has carefully considered the rival submissions and also perused the materials placed before it.

Secretariat Branch, dated 25.01.1990, the Tamil Nadu Electricity Board thought it fit to give employment in respect of persons whose lands were acquired for the purpose of construction of thermal projects and admittedly, the lands of the petitioner were acquired and she has also submitted an application for the post of Office Helper/Attender and she was selected and appointed and one of the Certificates given by her, viz., the Transfer Certificate, on verification, found to be false. The Administrative Branch of the Tamil Nadu Electricity Generation and Distribution Corporation vide proceedings in BP [FB] No.27, dated 07.11.2002, has considered the production of bogus Certificates/testimonials by the contract labourers who were absorbed as Helpers and a perusal of the same would indicate that the persons who have produced those certificates, were dismissed or removed from service and taking into consideration their plea and representations, a decision has been taken to modify the order of dismissal/removal from service into one of postponement of increment for a period of three years with cumulative effect and it is also subject to the condition that the individual workman has to obtain and produce Birth Certificate from the competent authorities for determining their age and in case of any difficulty, Medical Certificate from the District Medical Officer or equivalent rank may be obtained.

7. The Tamil Nadu Electricity Generation and Distribution Corporation [TANGEDCO] thought fit to extend the benefit even in respect of persons whose services were absorbed and since the petitioner stand on a better footing for the reason that her lands were acquired and she became landless and on account of the fact that, to sustain herself, employment has been given, that too, to the post of Office Helper/Attender, this Court is of the considered view that the benefit of the said proceedings can be extended to her also subject to the condition stipulated in Clause No.7 of the said proceedings.

8. It is also the submission of the learned counsel for the petitioner that the petitioner is placed under suspension from 01.11.2016 onwards and on account of the same, she is finding it extremely difficult to make both ends meet and also for the reason that she has become landless on account of acquisition of the lands for a public purpose.

9. In the result, the writ petition is allowed and the impugned order of suspension passed by the respondent dated 01.11.2016 is set aside and the respondent / Corporation in respect of disciplinary proceedings to be initiated/already initiated against the petitioner shall take note of the Board Proceedings in No.27 dated 07.11.2002 and pass appropriate orders and while doing so, also take into consideration the findings/observations made by this Court in this writ petition. The respondent is directed to carry out the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision

taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

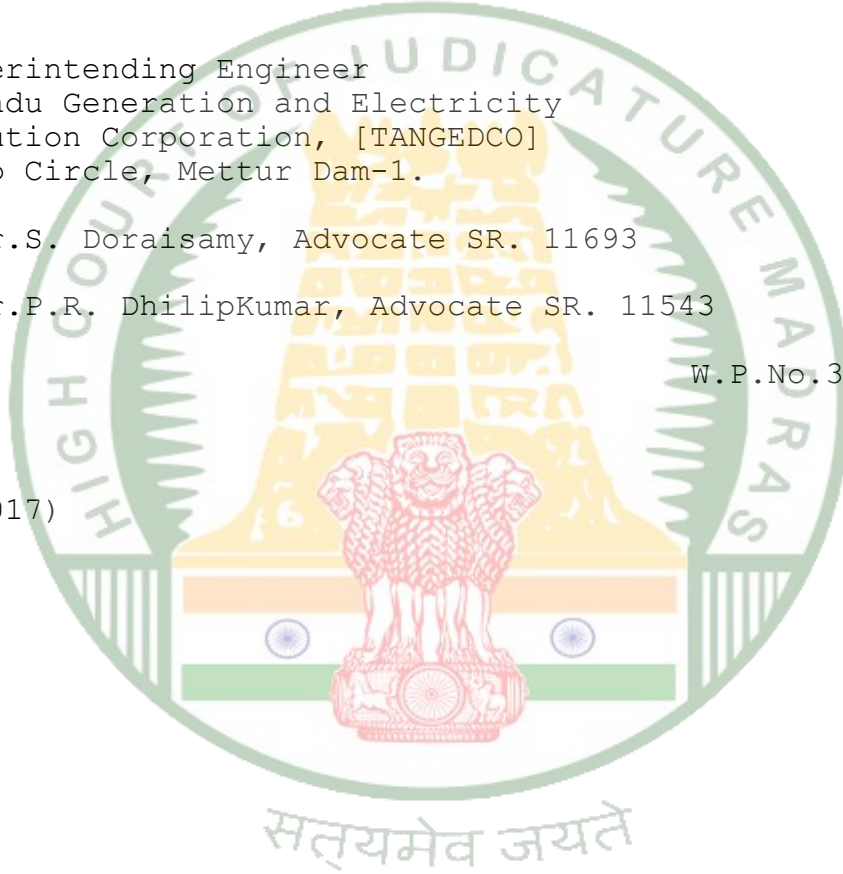
The Superintending Engineer
Tamil Nadu Generation and Electricity
Distribution Corporation, [TANGEDCO]
Workshop Circle, Mettur Dam-1.

+1cc to Mr.S. Doraisamy, Advocate SR. 11693

+1cc to Mr.P.R. DhilipKumar, Advocate SR. 11543

W.P.No.38913/2016

PA (CO)
VR(2/03/2017)



WEB COPY