

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 01.03.2017

DELIVERED ON: 03.03.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P.No.14107 of 2003

C. Sivasubramanian

Petitioner

vs.

1 Tamil Nadu Electricity Board
represented by its Chief Engineer
(Personnel), Chennai - 600 002

2 The Superintending Engineer
Tirunelveli Electricity Distribution Circle
Tirunelveli

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus by calling for the records of the second respondent dated 24.05.2001 made in Lr.No.7829/223/2001-1/Adm.II/A1/F.W.P./4664/92 and quash the same and directing the respondents to place the petitioner next below Meenakshisundaram, as per seniority.

For petitioner Ms. Chithira Gomathy

For respondents Mrs. R. Varalakshmi

ORDER

This writ petition has been filed challenging the second respondent's letter dated 24.05.2001 and for a direction to the respondents to place the petitioner next below Meenakshisundaram, as per seniority.

2 It is the case of the petitioner that he joined the Madras State Electricity Board as Helper on 01.02.1960 and he was selected and appointed as Switch Board Operator on 20.01.1969 after completion of probation. The Electricity Board, by order dated 06.08.1969, merged the Switch Board Operator category (carrying pay scale of Rs.105-4-145) and Lineman Grade-I category (carrying pay scale of Rs.98-3-128) and prescribed a common pay scale of Rs.140-7-210-8-250. It is the further case of the petitioner that at the time of merger of the two categories in the year 1969, the seniority of the petitioner should have been fixed above that of the Lineman Grade-I, as their scale of pay was lesser than

that of the pay scale of Switch Board Operator.

3 The fact remains that the petitioner did not challenge the seniority at that time. But, of course, it is contended by the petitioner that no seniority list was prepared.

4 Be that as it may, the petitioner was promoted as Commercial Inspector on 22.09.1978 and subsequently, as Foreman Grade I on 18.03.1983. The Electricity Board published a seniority list for Foreman Grade I on 15.05.1986, in which, the petitioner's name was at Serial No.53. According to the petitioner, he objected to the seniority by giving a representation dated 06.06.1986, but, to no avail. The Electricity Board published a seniority list dated 29.06.1990, in which, the petitioner's name was at Serial No.28. The petitioner addressed a representation to the authorities for re-fixation of his seniority, which was rejected on 07.02.1991, challenging which, the petitioner preferred W.P. No.4664 of 1992.

5 During the pendency of the said writ petition, the petitioner retired from service on 31.10.1994. However, W.P. No.4664 of 1992 was disposed of by this Court on 06.01.2000 with a direction to the Electricity Board to re-consider the matter afresh within three months from the date of receipt of a copy of the order. Pursuant to the said order passed by this Court in W.P. No.4664 of 1992, the Electricity Board considered the petitioner's request and rejected the same by a detailed order dated 24.05.2001, challenging which, the petitioner filed the present writ petition on 28.04.2003.

6 The respondents have filed their counter affidavit clearly explaining their stand.

7 Heard both sides.

8 The short point that emerges for consideration in this writ petition is whether the petitioner's seniority should be fixed above the cadre of Lineman or not.

9 In the counter affidavit filed by the respondents, it is stated that the petitioner joined the Electricity Board as Nominal Muster Roll (NMR) worker on 21.08.1955 and he was appointed as Helper on regular basis on 01.02.1960. On 02.02.1965, he was appointed as Switch Board Operator on emergency basis, because, he did not have the necessary qualifications prescribed by the Rules for the post of Switch Board Operator. According to the Rules, the qualification for Switch Board Operator was a pass in SSLC and 5 years experience in the same type of work. The petitioner did not have the five years experience as he was only a Helper, despite which, on account of exigency, he was posted as Switch Board Operator and was regularised on 02.01.1968, by reckoning

his previous experience in the lower post of Helper.

10 In view of the above, the petitioner's seniority in the post of Switch Board Operator can be fixed only with reference to 02.01.1968 and the persons who were placed above the petitioner, against whom, he has grievance, were regularly appointed either in the post of Switch Board Operator or Lineman Grade I prior to 02.01.1968. In fact, the Electricity Board had regularised him on 02.01.1968 by taking into consideration, his past service as Helper, though he did not have the 5 years practical experience that is required for the appointment to the post of Switch Board Operator.

11 Coming to the allegations of the petitioner qua certain individual workmen, at paragraph no.11 of the counter affidavit filed by the respondents, it has been stated as under:

"Similarly, Thiru S. Michael Stephen and Thiru M. Shanmugiah, placed at Sl.No.10 and 11 respectively in the seniority list of Foreman I Grade ex-employee of erstwhile T.T.E.S. Co. Ltd. They were absorbed in the Board's service in the category of Line Inspector with effect from 1.12.1973 from the erstwhile company's R.W.E. Categories of Installation Tester and Line Supervisor respectively. Their rank and seniority were fixed with reference to their date of joining in the R.W.E. Category of erstwhile T.T.E.S. Company at the time of absorption. They were seniors to the petitioner since they had joined in the respective R.W.E. Category of the erstwhile T.T.E.S. and absorbed as Line Inspector in T.N.E.B. prior to the date of joining of the petitioner in the post of Commercial Inspector/Line Inspector. He had contended that persons below the said Thiru M. Meenakshisundaram were all juniors to him and he should have been placed below Thiru. M. Meenakshisundaram and above Thiru B. Chidambaram of the seniority list of Foreman I Grade as on 1.6.90 communicated. In this connection, it is stated that Thiruvalargal B. Chidambaram, C.S. Manian, S. Sankarasubramanian and R. Somasekaran Pillai placed at Sl.No.4,5,6 and 7 respectively of the seniority list of Foreman Ist Grade as on 01.06.1990 were transferred to this Circle from the Project Circle/Generation Circle on administrative grounds as rendered surplus in project circles. As per instruction issued in B.P. Ms.No.66 dated 1.2.85, the surplus R.W.E. Workmen transferred from Project Circle to Distribution Circle on administrative grounds shall be merged with the workman of the respective distribution circle and their inter-seniority shall be fixed with reference to their

date of joining in the respective R.W.E. category in which the workmen were working in their parent project circle at the time of transfer. Accordingly, the rank and seniority of the above said surplus workmen of Project Circles were fixed in the post of Foreman Ist Grade. Such type of workmen who have joined prior to the date of joining of the petitioner in the post of Foreman Ist Grade cannot therefore be said as juniors to him as alleged by him."

12 In view of the above, this Court does not find any infirmity in the seniority list, as alleged by the petitioner, warranting interference. The persons against whom the petitioner has grievance, were far senior to him, as they joined prior to his date of joining in the post of Foreman Grade I. The petitioner's grievance that, had the seniority list been prepared for Switch Board Operators in the year 1969, then, he would have been much above, is indeed far fetched, inasmuch as the petitioner accepted his subsequent promotions to the post of Commercial Inspector and Foreman Grade I and only when the seniority list of Foreman Grade I was prepared, he sought to challenge the same. The explanation offered by the Board that while preparing the seniority list of Foreman Grade I, the Board had taken into consideration, the date of initial appointment of persons from the erstwhile R.W.E. categories and accordingly, the seniority list was prepared, is acceptable.

In view of the above discussion, this writ petition is liable to be dismissed as being devoid of merits and is accordingly dismissed. Costs made easy.

cad

-sd-

Assistant Registrar

//True copy//

Sub Assistant Registrar

To

- 1 The Chief Engineer
Tamil Nadu Electricity Board
(Personnel)
Chennai - 600 002
- 2 The Superintending Engineer
Tirunelveli Electricity Distribution Circle
Tirunelveli

W.P.No.14107 of 2003

RJ (CO)

VS 13.03.2017

<https://hcservices.ecourts.gov.in/hcservices/>