



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1342 of 2015

and

M.P. (MD) .No.2 of 2015

1.The Chief Engineer [Transmission],
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai 600 002.

2.The Superintending Engineer,
[General Construction Circle],
Tamil Nadu Electricity Board,
K.Pudur, Madurai.

: Appellants

Vs.

V.Chinnasamy,
Stores Supervisor [Retd.,],
Central Stores [GCC],
Tamil Nadu Electricity Board,
Samayanallur, Madurai District.

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 05.11.2014 made in W.P.(MD).No.9369 of 2009, on the file of this Court.

Prayer in WP(MD). 9369/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedigns issued by the 1st respondent in Memo No. 7198/726/T./T.246/F.DP.CHI/2009-1 dated 18/08/2009 rejecting petitioners appeal and confirming the order of punishment dated 14/10/2008 passed by the 2nd respondent and quash the same as illegal and consequentially to direct the respondents to restore my prmotion as stores officer w.e.f. 28/07/2008 along with all monetary benefits including the retirement benefits threof.

For Appellants

: Mrs.S.Srimathy

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

For Respondent

: Mr.M.E.Ilango

**JUDGMENT**

[Judgment of the Court was made by **R.SUBBIAH, J.**]

This Writ Appeal has been filed as against the order, dated 05.11.2014, made in W.P.(MD).No.9369 of 2009, whereby and whereunder, the learned Single Judge of this Court disposed of the Writ Petition filed by the respondent herein directing the appellants herein to give notional promotion to the respondent as Store Officer, with effect from 17.12.2008, with consequential service and monetary benefits, including retired cum pensionary benefits, within a period of eight weeks from the date of receipt of a copy of the order.

2. The case of the respondent before the learned Single Judge is that he was, initially, appointed as Store Keeper Grade II, on 28.03.1981. Thereafter, he was promoted as Store Keeper Grade I, on 06.05.1994 and subsequently, he was promoted as Store Supervisor on 26.09.2002. While so, he was issued with a charge memo, dated 04.02.2008, levelling as many as three charges against him. The respondent submitted his explanation for the above said charge memo. Since the explanation offered by the respondent was not satisfactory, an Enquiry Officer was appointed to enquire into the charges levelled against him. The Enquiry Officer, after holding enquiry, submitted his report, holding that the charge Nos.1 and 2 were not proved, whereas, charge No.2 stood proved against the respondent.

3. In the meanwhile, a panel dated 26.02.2008 was drawn for promotion to the post of Store Officers. The respondent was also given promotion and posted as Stores Officer at North Chennai Thermal Power Station, by order dated 28.07.2008. When the matter stood thus, all of a sudden, without giving any notice, his promotion was cancelled, by order dated 21.08.2008, on the ground that the disciplinary proceedings were pending against him. Subsequently, by order dated 14.10.2008, the respondent was imposed with the punishment of stoppage of increment for six months without cumulative effect.

4. Aggrieved over the said order, the respondent filed an appeal on 01.11.2008 seeking to set aside the punishment and also consequential cancellation of promotion. In the meantime, the respondent was allowed to retire from service on attaining the age of superannuation, on 28.02.2009. Since no action was taken on the appeal filed by the respondent dated 01.11.2008, he was constrained to file W.P.(MD).No.4479 of 2009, which was, by order dated 09.06.2009, disposed of directing the first appellant herein to dispose of his appeal within a period of four weeks from the date of receipt of a copy of the order.



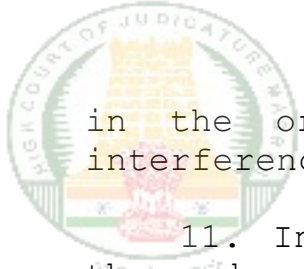
5. The first appellant, by order dated 18.08.2009, rejected the appeal filed by the respondent. Challenging the same, the respondent filed W.P.(MD).No.9369 of 2009. The learned Single Judge of this Court, while disposing of the Writ Petition, directed the appellants herein to give notional promotion to the respondent as Store Officer with effect from 17.12.2008, with consequential service and monetary benefits, including retired cum pensionary benefits within a period of eight weeks from the date of receipt of a copy of the order. The said order is challenged in this Writ Appeal by the appellants - Electricity Board.

6. The learned Standing Counsel appearing for the appellants submitted that during the period of punishment, the respondent attained the age of superannuation and he was also allowed to retire from service and therefore, question of considering his claim for notional promotion does not arise. However, the learned Single Judge, without considering the said aspect, has directed the appellants to give notional promotion to the respondent as Store Officer with effect from 17.12.2008, with consequential service and monetary benefits, including retired cum pensionary benefits. Thus, according to the learned Standing Counsel the order passed by the learned Single Judge is liable to be set aside.

8. Per contra, the learned counsel appearing for the respondent submitted that the second appellant herein, by his proceedings dated 17.12.2008, informed that the respondent has not undergone any punishment previously and hence, he may be considered for promotion. The learned counsel further submitted that the non-disposal of the appeal filed by the respondent cannot be a reason to deny his promotion.

9. We have considered the above submissions and keeping in mind the above submissions made by the learned counsel on either side, we have gone through the materials available on record.

10. From the materials placed on record, we find that the Superintending Engineer, General Construction Circle, Madurai, the second appellant herein, by his proceedings dated 17.12.2008, communicated to the Chief Engineer, Personnel, Tamil Nadu Electricity Board, the first appellant herein, that the respondent has not undergone any punishment previously and hence, he may be considered for promotion. Therefore, we are of the considered view, since the second appellant had already recommended the case of the respondent for promotion to the first appellant, the learned Single Judge has rightly directed the appellants to give notional promotion to the respondent as Store Officer, with effect from 17.12.2008, with consequential service and monetary benefits, including retired cum pensionary benefits. Further, the non-disposal of the appeal filed by the respondent cannot be a reason to deny his promotion. Thus, we do not find any infirmity



in the order passed by the learned Single Judge warranting interference at the hands of this Court.

11. In the result, the Writ Appeal is dismissed, confirming the order dated 05.11.2014 made in W.P.(MD).No.9369 of 2009. The appellants are directed to implement the order passed by the learned Single Judge within a period of four weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

+1 CC to M/s.S.M.S JOHNNY BASHA, Advocate, SR No.4686/17.

+1 CC to M/s.M.E.ILANGO, Advocate, SR No.4809//17

NB

PSM/SV-MMS/09.02.2017/4P/3C

JUDGMENT MADE IN
W.A.[MD].No.1342 of 2015
30.01.2017