

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

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THE HON'BLE DR. JUSTICE S.VIMALA

W.P.No.18644 of 2013
and M.P.No.1 of 2013

The Superintending Engineer,
Vellore Electricity Distribution Circle,
TANGEDCO,
Gandhi Nagar,
Vellore. ... Petitioner

versus

1. The General Secretary,
Tamil Nadu Electricity Employees Union,
Regd. No.2508/58,
No.27, Reddiyappa Mudali Street,
Kosapet, Vellore - 632 001.

2. C.Chinnadurai (Foreman Retired)

3. The Presiding Officer,
The Additional Labour Court,
Vellore.

4. The Presiding Officer,
The Principal Labour Court,
Vellore. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, to call for the records in I.D.No.218/2002 dated 29.04.2009 on the file of the 3rd respondent and C.P.No.30 of 2012 dated 27.09.2012 on the file of the 4th respondent, quash the same.

For Petitioner : M/s.M.Pakkir Mohideen
For Respondents : Mr.J.Saravana Vel for R1 and R2
ORDER

The writ petition has been filed by the Management challenging the awards of the Labour Court directing the Management to give promotion to the post of Foreman to the workman and also challenging the award of the Labour Court computing the benefits payable to the workman at Rs.24,800/-.

2. The workman joined the services of the Electricity Board as Helper on 16.01.1971. Thereafter, he held the next promotional post of Wireman and Lineman. Thereafter, he joined the duty as Line Inspector on 20.05.1995. His next promotional post was that of the Foreman, in respect of which,

there was a dispute.

2.1. In the year 1988, the Board prescribed Educational Qualification to the post of Foreman as that of pass in the 8th Standard. The workman was possessing educational qualification of a pass in the 5th standard. Therefore, he was not considered for the post of Foreman in the 1999. However, his juniors were promoted as per Rules.

2.2. Subsequently, educational qualification for the post of Foreman was relaxed as per the settlement effected under Section 18(1) of the Industrial Disputes Act, which was signed on 25.01.2000 by the Electricity Board and the Union. As per the terms and conditions of the settlement, the workman became eligible for consideration of the post of Foreman subject to suitability.

2.3. As per the Service Regulation 98(b)(1) of TNEB Service Regulation, promotion in all cases shall be made on the grounds of merit ability and suitability, seniority being considered only where merit ability and suitability being approximately equal.

2.4. The petitioner preferred I.D.No.218 of 2002, challenging non-grant of promotion and ultimately, an award was passed directing the respondent to promote the workman as Foreman and to pay him monetary benefits from the date of his promotion, i.e. on 04.09.1999. This award was passed on 29.04.2009.

2.5. The difference in wages for the period from 04.09.1999 to 30.11.2012, amounting to Rs.24,800/- was claimed in C.P.No.30 of 2012 before Labour Court, Vellore and this was ordered by the award dated 27.09.2012.

2.6. Challenging both the awards, a single writ petition has been filed in W.P.No.81644 of 2013. It is not known how the award passed in two different proceedings and decided in two separate years can be clubbed together and single writ petition could be filed. The filing of single writ petition challenging the award of the year 2009 and award of the year 2012 itself is mischievous and deserves to be dismissed on this simple, but serious ground. However, in order to avoid multiplicity of proceedings, this Court heard the matter on merits.

3. A perusal of the award in I.D.No.218 of 2002 would go to show that the Labour Court has relied upon the 18(1) settlement dated 25.01.2000 under which the Educational Qualification for the post of Foreman has been relaxed. The eligibility criteria of a pass in the 8th standard for promotion to Foreman is the requirement only till 30.11.1988 and thereafter, a person with lesser qualification also is eligible for promotion subject to merit ability and suitability. It is pointed out that in the opinion of the Management, the workman is a suitable person as per the entry made in Job Allocation Register. Therefore, rightly, the Labour Court has passed the award, directing grant of promotion. The finding being legal cannot be interfered with.

4. So far as the computation of the service benefits is concerned, the Labour Court has observed in the award that with regard to the claim of monetary benefits, which was supplemented by a memo of calculation, there is no effective challenge by the petitioner herein, either by denying the calculations filed by the workman or by giving any other calculation on behalf of the management. Therefore, it is clear that the order passed in the computation petition is legal and it cannot be interfered with.

5. In the result, the writ petition filed by the petitioner is dismissed and the awards passed in I.D.No.28 of 2002 and C.P.No.30 of 2012 are also confirmed. The amount as ordered in C.P.No.30 of

2012 shall be paid within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2018

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Note: Issue order copy by today itself.

To

1. The General Secretary,
Tamil Nadu Electricity Employees Union,
Regd. No.2508/58,
No.27, Reddiyappa Mudali Street,
Kosapet, Vellore - 632 001.

DR.S.VIMALA, J.

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