IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.33722 of 2012
& MP.No.1 of 2012

S.Parthiban .. Petitioner

Vs

The Tamilnadu General and Distribution
Corporation Ltd,
rep. by its Superintending Engineer,
Namakkal Electricity Distribution Circle,
Namakkal District. .. Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the respondent dated 24.09.2012 in Ku No.11789/288/Ni.Pi.2(2)Ko.15/2012 and quash the same only in sofar as it relates to the petitioner and consequently direct the respondent to forthwith promote the petitioner as Foremen-I, Grade with effect from the date on which his juniors have been promoted.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.P.R.Dilipkumar

ORDER

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This petition has been filed by the petitioner seeking for a writ of certiorarified mandamus by quashing the impugned order dated 24.09.2012 in Ku No.11789/288/Ni.Pi.2(2)Ko.15/2012 of the Superintendent Engineer/ the appellate authority against the order of the Departmental Promotion committee, and issue a writ of mandamus directing the Departmental Promotion Committee of the respondent to consider the case of the petitioner for promotion.

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2.As it appears, the petitioner who joined under the respondent as a Helper while on duty, met with an accident resulting in some psychical disability. However, he continue to be kept in service and was also promoted as a Commercial Assistant on 18.09.1992 and allowed to work in the office considering his psychical disability to perform the field work. Again the petitioner was promoted as a Commercial Inspector, as he had the necessary fitness for such promotion. However, the petitioner thereafter, was due for promotion to the next grade i.e., Foreman Grade -I, and his fitness was certified by the Assistant Executive Engineer. In spite of the same, the petitioner was not empaneled for promotion as revealed from the order dated 17.08.2012 of the respondent. Challenging the same, to be illegal and arbitrary and also contrary to the mandate of Central Act i.e., the Persons with Disabilities(Equal opportunities, Protection of Rights and Full Participation Act) 1995 and also the Tamilnadu Persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 2002 and also the rule framed under the said Act by the Tamil Nadu Government vide Tamilnadu Persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 2002. Such order was challenged by the petitioner in W.P.No.24035 of 2012. This Court vide order dated 04.09.2012, disposed of the same giving liberty to the petitioner to approach the appellate authority with a direction to dispose of the same within a period of three weeks. Accordingly, the appeal filed by the petitioner was disposed of, vide the impugned order rejecting the claim of the petitioner and confirming the impugned order. The petitioner has assailed the same in this writ petition to be illegal, arbitrary with a prayer to quash the same and direct the respondent to empannel him for the promotion.

3. No counter affidavit has been filed by the respondent.

4. I have heard the learned counsel for the parties and gone through the materials on record. On perusal of materials available on record, it appears that the appellate authority has confirmed the order dated 17.08.2012, vide the impugned order without assigning any reasons. The said order being a non-speaking one, there appears to be violation of principles of natural justice and as such, the same cannot be sustained.

5. I would therefore, allow this writ petition and set aside the order of the appellate authority impugned herein in this writ petition and remit back the matter to the appellate authority/Superintendent Engineer with a direction to consider

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the case of the petitioner taking note of the relevant statutory provisions and also the psychical fitness and dispose of the same, within a period of three months from the date of receipt of a copy of this order by a speaking order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Superintending Engineer,
The Tamilnadu General and Distribution
Corporation Ltd,
Namakkal Electricity Distribution Circle,
Namakkal District.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.23275

W.P.No.33722 of 2012

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