

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2018
CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.35381 of 2012

M.Durairaj

... Petitioner

Vs

1.The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.

2.The Additional Chief Engineer,
Chengalpattu Electricity Distribution,
TNEB, Chengalpattu.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the proceedings of the 2nd respondent herein in proceedings in Memo No.03819/Adm.3/A1/F. Pay Anomaly 2012 dated 28.08.2012 and quash the same and direct the respondents herein to re-fix the petitioner's scale of pay with effect from 27.01.2000 and thereby set right the pay anomaly between the petitioner and his junior Mr.V.Raveendiran, pending disposal of the above writ petition.

For Petitioner : Mr.R.Bharat Kumar
For Respondents : Ms.Ratnatara

O R D E R

Heard Mr.R.Bharat Kumar, learned counsel for the petitioner and Ms.Ratnatara, learned counsel appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the proceedings of the 2nd respondent herein in proceedings in Memo No.03819/Adm.3/A1/F. Pay Anomaly 2012 dated 28.08.2012 and quash the same and direct the respondents herein to re-fix the petitioner's scale of pay with effect from 27.01.2000 and thereby set right the pay anomaly between the petitioner and his junior Mr.V.Raveendiran, pending disposal of the above writ petition. "

3. The case of the petitioner is as follows:-

According to the petitioner, he joined the Tamil Nadu Electricity Board (TNEB) as Helper on 09.09.1987 and after attained the age of superannuation, he retired from service on 31.12.2012. According to him, one Mr.Raveendiran had also joined as Helper in 1987. The petitioner was placed at Serial No.280 in the seniority list and the said Mr.Raveendiran was placed at Serial No.292.

4. According to the petitioner, both himself and the said Mr.Raveendiran drawing a salary of Rs.5,110/- at the relevant point of time. However, it appears that, subsequently, Mr.Raveendiran had granted higher pay scale and higher basic pay than the petitioner. Therefore, the petitioner made a representation to the Board, which was rejected on 28.08.2012 and the rejection order is impugned in the present writ petition.

5. The learned counsel for the petitioner would submit that the impugned rejection order is a non-speaking order, since no reasons were spelt out as to why the claim of the petitioner could not be acceded to.

6. Upon notice, learned counsel for the respondents entered appearance and filed a counter affidavit. In the counter affidavit, it is stated in Paragraph No.7 as follows:-

"7. Regarding the averments in paragraph 6, I submit that Thiru.V.Raveendiran/Foreman-I Grade had promoted as Foreman-I Grade on 27.01.2000 and subsequently as Special Grade Foreman on 10.08.2011 based on appeal to the 1st respondent and as per the direction of Hon'ble High Court/Madras but the petitioner got promotion as Foreman-I Grade on 18.01.2007 only, and as Special Grade Foreman on 12.03.2012 FN. As per the instructions issued in the above memorandum to rectify the pay anomaly, the petitioner should be in identical panel. The petitioner was not promoted as Foreman-I Grade on 27.01.2000. Further the petitioner had not made any appeal for non-inclusion in the panel dated 04.01.2000 as per service regulation 98 (2) (b) and (c) of Tamil Nadu Electricity Board, service regulations within period a benod of three months, years and hence cannot question the seniority at this distant point of time."

7. The learned counsel appearing for the respondent Board would therefore submit that the said Mr.Raveendiran having been promoted very much earlier to the petitioner as Foreman Grade I and Special Grade Foreman and the petitioner having got promotion much after the said Mr.Raveendiran as Foreman Grade I and Special Grade Foreman as indicated above, cannot seek stepping up of pay on par with him.

8. At this, the learned counsel for the petitioner would submit that the reasons stated in the counter affidavit cannot improve the case of the Board, since the original rejection order impugned in the writ petition is a non-speaking order.

9. Be that as it may, the reasons have been fully disclosed in the counter affidavit as to why the claim of the petitioner could not be considered favorably. The said Mr.Raveendiran having been promoted much earlier to the petitioner to the higher post, the petitioner cannot seek parity with the said Mr.Raveendiran. It appears that the said Mr.Raveendiran had approached this Court at appropriate time in 2010 and obtained certain directions, based on which, his promotion was granted as Foreman grade I in 2010 and to the higher post subsequently.

10. That being the case, the petitioner having lost his chance to seek appropriate legal remedy at the appropriate time, cannot raise the present issue at the fag end of his carrier that too at the verge of his retirement. Considering the entire circumstances of the case, this Court finds no merit in the writ petition and therefore, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
800, Anna Salai,
Chennai 600 002.

2.The Additional Chief Engineer,
Chengalpattu Electricity Distribution,
TNEB, Chengalpattu.

+1cc to Mr.R.Varalakshmi, Advocate, S.R.No.435

+1cc to Mr.G.Arumugaraja, Advocate, S.R.No.202

W.P.No.35381 of 2012

BR(CO)

RRK(20/02/2018)