

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.13726 of 2009

S.Vasudevan

... Petitioner

Vs.

1. The Chariman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002.
2. The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002.
3. The Senior Personnel Officer/
Inspection & Public Information Officer,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002.
4. The Superintending Engineer,
General Construction Circle,
Tamil Nadu Electricity Board,
Salem.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to his Letter No.041466/164/G.1/G.11/2009 dated 09.06.2009 and quash the same as illegal and without application of mind and consequently, direct the respondents herein to grant notional promotion to the petitioner to the post of Assistant Executive Engineer (Electrical) with all attendant benefits.

For Petitioner : Mr.G.Ananda KUMar

For 1 to 4 Respondents : Mr.P.R.Dhilipkumar

O R D E R

Challenging the proceedings of the 3rd respondent in Letter No.041466/164/G.1/G./2009 dated 09.06.2009, quash the same as illegal and without application of mind and also for consequential direction, directing the respondents herein to grant notional promotion to the petitioner to the post of Assistant Executive Engineer (Electrical) with all attendant benefits, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that the petitioner was selected and appointed by direct recruitment in the service of the Tamil Nadu Electricity Board on 21.07.1971 as an Assistant Draughtsman. Subsequently, he was promoted as Draughtsman on 08.01.1977. Thereafter, he was promoted as Senior Draughtsman on 08.04.1987 and further promoted as Head Draughtsman on 15.09.2001. Later on, he was promoted as Chief Head Draughtsman on 02.01.2003 and continued in the same cadre till his retirement on 31.12.2008. By the time, the petitioner has rendered 37 years of unblemished record of service, it is pleaded.

3. The learned Counsel for the petitioner further submitted that the next promotion from the post of Chief Head Draughtsman is Assistant Executive Engineer-Electrical. While so, the seniority list for promotion panel to the post of Assistant Executive Engineer-Electrical has been prepared from among the Assistant Engineers-Electrical, Junior Engineers-Electrical Grade I and Chief Head Draughtsman as per the Board's Rules. In the said seniority list, the petitioner is the only person in the Chief Head Draughtsman cadre for promotion to the post of Assistant Executive Engineer-Electrical and other persons are Assistant Engineers-Electrical and Junior Engineers-Electrical Grade I. Consequent to the said seniority list, the 2nd respondent herein called for suitability report for promotion as Assistant Executive Engineer-Electrical vide Memo dated 25.07.2008 from the concerned Superintending Engineers. The 3rd respondent has submitted his report during September, 2008 itself.

4. The learned Counsel for the petitioner also submitted that the Board has prepared a promotional panel to fill up the vacancies in the Assistant Executive Engineer-Electrical/Electrical posts in the interest of administration. Even after waiting for 4 months from the date of promotional panel, the Board has not issued the promotion order to the petitioner. Therefore, the petitioner made a representation dated 17.11.2008 to the respondents 1 and 2 requesting them to promote him as Assistant Executive Engineer-Electrical

immediately before his retirement as his retirement was fast approaching on 31.12.2008. Even Regulation 106 of the Tamil Nadu Electricity Board Service Regulations describes that the temporary appointments and promotions may be made in the interest of the administration.

5. The learned Counsel for the petitioner further submitted that after calling for service particulars from the eligible candidates for promotion to the post of Assistant Executive Engineer-Electrical on 25.07.2008 in CE.PER.Letter No.058834/290/G1/G11/2008-2, the said process was not further proceeded for the reason that writ petitions in W.P.Nos.22990 and 22874 to 22877/2008 were filed by some of the Assistant Engineers-Electrical appointed by internal selection in the year 2002, who obtained an order of status quo against the preparation of panel for promotion as Assistant Executive Engineer-Electrical. Since there was an order of status quo granted, the respondents have not processed the said panel. In the meanwhile, the petitioner also reached the age of superannuation on 31.12.2008 and retired from service. Later on, the said writ petitions were also dismissed on 31.08.2010. Therefore, the request of the petitioner to give him promotion either on the regular course or temporarily on the basis of the service regulation 106 of the Tamil Nadu Electricity Board Service Regulations should have been accepted. Further, according to the petitioner, he made a request to give him promotion as Assistant Executive Engineer - Electrical, either temporarily or on regular basis in the interest of the administration, while awaiting for the result of the Writ Petition Nos.22990/2008 and 22874 to 22877/2008, without considering the same, the respondents have wrongly passed the impugned order. Therefore, the same has to be set aside.

6. A detailed counter affidavit has been filed by the respondents.

7. Mr.P.R.Dhilip Kumar, learned Standing Counsel appearing for the respondents submitted that when the Electricity Board has called for service particulars of the eligible candidates who are due for promotion to the post of Assistant Executive Engineer by CE.PER.Letter No.058834/290/G1/G11/2008-2 dated 25.07.2008, the name of the petitioner was also shown. But, subsequently, before preparation of the panel some of the Assistant Engineers- Electrical direct recruitees have filed W.P.Nos.22990 and 22874 to 22877/2008 and obtained an order of status quo. Since an order of status quo was granted in the pending writ petitions, the promotional process was also completely kept in abeyance. Finally, the said writ petitions were dismissed on 31.08.2010. Only thereafter, the promotional panel was prepared on 19.10.2009 and the panel for 401 officials

for promotion from the post of Assistant Engineer-Electrical to the post of Assistant Executive Engineer-Electrical was issued for which the suitability reports were called for vide letter dated 25.07.2008. In the meanwhile, during the pendency of the writ petitions with an order of status quo, the petitioner retired from service on 31.12.2008 on reaching the age of superannuation as Chief Head Draughtsman. Since the petitioner retired, the name of one Nagarajulu, the next CHD in the seniority was selected and included in the panel. During the pendency of the writ petition with an order of status quo operating against the respondent Board, they cannot proceed further and finally, since the petitioner also retired from service on reaching the age of superannuation, he cannot claim promotion. Therefore, the impugned order passed is perfectly in order.

8. This Court also finds full merit on the submissions made by the learned Standing Counsel for the respondents.

9. Admittedly, when the panel for 401 officials for promotion from the post of Assistant Engineer-Electrical to the post of Assistant Executive Engineer-Electrical was issued for which the suitability reports were called for vide CE.PER.Letter No.058834/290/G1/G11/2008-2 dated 25.07.2008, some of the direct recruited Assistant Engineers Electrical having disputed with the service candidates filed W.P.Nos.22990 and 22874 to 22877/2008 seeking an order of injunction not to proceed with the promotional process. An order of status quo was also granted in the said Writ Petitions. Therefore, the panel for promotion to the post of Assistant Executive Engineer - Electrical was kept pending. In the meanwhile, sadly, the petitioner reached the age of superannuation on 31.12.2008 and retired from service. In view thereof, one Nagarajulu, the next CHD in the seniority was selected and included in the panel. Therefore, it appears that the case of the petitioner could not be considered for promotion to the post of Assistant Executive Engineer. As such, I find no merit in the Writ Petition.

10. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

tsi

To

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Salem.

+1cc to Mr.G.Anandakumar, Advocate Sr.29397

+1cc to Mr.P.R.Dhilipkumar, Advocate Sr.30223

W.P.No.13726 of 2009

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srg 8/5/2019

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