

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.35746 of 2007 and
M.P.No.2 of 2007

K.Saravanan

...Petitioner

Versus

1. Tamil Nadu Electricity Board
rep. by its Chairman,
No.800, Anna Salai,
Chennai-600 002.
2. The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-600 002.
3. The Chief Engineer/Distribution,
Tamil Nadu Electricity Board,
Vellore Region,
Vellore District-636 006.
4. The Superintending Engineer,
Tirupathur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupattur, Vellore District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the 3rd respondent in Memo No.006967/Admn/B2/2007-1 dated 27.03.2007 and the Order of the 2nd respondent in Letter No.125656/AB/G.11/G.111/2007-3 dated 06.06.2007 and quash the same in so far as the denial of monetary benefits in the category of Assistant Executive Engineer with effect from 13.03.2001 and consequently, direct the respondents to pay the monetary benefits in the category of Assistant Executive Engineer from 13.03.2001 with interest at the rate of 18% p.a.

For Petitioner	: Mr.N.Kolandaivelu
For Respondents	: Mr.M.Fakkir Mohideen, Standing Counsel

O R D E R

This Writ Petition has been filed questioning the correctness of the impugned Memo No.006967/Admn/B2/2007-1 dated 27.03.2007 of the 3rd respondent and also the order passed by the 2nd respondent in Letter No.125656/AB/G.11/G.111/2007-3 dated 06.06.2007, to quash the same insofar as the denial of monetary benefits in the category of Assistant Executive Engineer with effect from 13.03.2001 is concerned.

2. Learned Counsel for the petitioner submitted that while the petitioner was serving as Assistant Engineer in Gudiyatham Division, he was placed under suspension for the allegation of demand of bribe. A criminal case was also laid in S.C.No.1 of 1993 on the file of the Special Judge/Chief Judicial Magistrate, Vellore. Finally, the criminal case registered against the petitioner was ended in conviction by judgment dated 28.04.2000. Based on the conviction recorded by the learned Special Judge/Chief Judicial Magistrate, the petitioner was dismissed from service by an order passed by the Superintending Engineer, Tirupattur Electricity Distribution Circle, Tamil Nadu Electricity Board, Tirupattur, Vellore District, the 4th respondent herein. As against the same, the petitioner filed an appeal before the respondents 1 and 3, who also rejected his appeal. Thereafter, challenging the conviction, the petitioner preferred an appeal in Criminal Appeal No.412/2000 before this Court and this Court by judgment dated 25.08.2006 after acquitting the petitioner from all charges allowed the appeal.

3. The learned Counsel for the petitioner further submitted that since the petitioner was not reinstated in service, after getting acquittal from the criminal proceedings, he filed W.P.No.4916/2007 before this Court seeking to issue a Writ of Mandamus, directing the respondents to consider his representation dated 05.09.2006 for reinstatement. This Court by order dated 27.2.2007 taking note of the fact that the petitioner was dismissed from service only on the basis of the conviction and sentence imposed against him by judgment dated 28.04.2000 by the learned Special Judge/Chief Judicial Magistrate, Vellore in S.C.No.1/1993 which was set aside by this Court in Crl.A.No.412/2000 by judgment dated 25.08.2006, while disposing of the Writ Petition, directed the respondents to consider the representation of the petitioner dated 05.09.2006 and pass orders purely taking in consideration of the order passed by this Court in setting aside the conviction and sentence imposed on the petitioner. By virtue of the order passed by this Court, the 4th respondent, namely, the Superintending Engineer, Tirupattur Electricity Distribution Circle, Tamil Nadu Electricity Board, Tirupattur, Vellore District, has reinstated the petitioner in service by Memo dated

13.03.2007 as Assistant Engineer.

4. The learned Counsel for the petitioner also submitted that thereafter, the petitioner preferred a representation to the 2nd respondent on 14.3.2007 seeking promotion to the post of Assistant Executive Engineer. The name of the petitioner was originally included in the panel which was communicated vide Memo No.822/Admn./A.2/F.D.P./2000-5 dated 8.2.2001 but the order of promotion dated 13.3.2001 was cancelled by another order dated 16.3.2001 pursuant to the criminal proceedings initiated against the petitioner by Directorate of Vigilance and Anti Corruption. Therefore, he has given a representation dated 16.5.2007 to the 1st respondent seeking monetary benefits in the post of Assistant Executive Engineer w.e.f. 13.3.2001 and the same was forwarded to the 2nd respondent which was negatived by the 2nd respondent on the ground of 'no work no pay'. Hence, challenging the same, the present Writ Petition has been filed.

5. A detailed Counter Affidavit has been filed by the 4th respondent.

6. Mr.M.Fakkir Mohideen, learned Standing Counsel appearing for the respondents submitted that the name of the petitioner was shown in the panel for promotion to the post of Assistant Executive Engineer in Memo dated 08.02.2001. Thereafter, the promotion order was also issued on 13.3.2001. Within two days of including the petitioner in the promotion panel, the Directorate of Vigilance and Anti Corruption initiated a criminal proceedings against the petitioner for having accepted a bribe of Rs.1,000/- for registering Agricultural Service Connection. Subsequently, a criminal case was also filed against him vide S.C.No.1/1993 in which the petitioner was convicted by the Special Judge/Chief Judicial Magistrate, Vellore and thereafter, he was also dismissed from service by an order passed by the 4th respondent through Memo No.822/Adm.3/a2/F.D.P./2000-5 dated 8.2.2001. Although the trial court convicted the petitioner under various sections of Prevention of Corruption Act, on his appeal in CrI.A.No.412/2000 before this Court, this Court interfered with the order of conviction, acquitted the petitioner by judgment dated 25.08.2006. Thereafter, he was reinstated in service as Assistant Engineer vide Memo of the 4th respondent dated 13.3.2007.

7. The learned Standing Counsel for the respondents further submitted that after joining duty, the petitioner preferred a representation to the Chief Engineer/Personnel, Tamil Nadu Electricity Board, Chennai, the 2nd respondent herein, on 14.3.2007 seeking promotion to the post of Assistant

Executive Engineer as per the order passed in Letter No.44721/G11/G111/2000-32 dated 13.3.2001. The said request was also considered by the 3rd respondent in his Proceedings dated 27.3.2007 by promoting him as Assistant Executive Engineer. While so, the petitioner retired from service on 31.3.2007 as Assistant Executive Engineer on his reaching the age of superannuation and he made a representation dated 4.4.2007 seeking monetary benefits in the post of Assistant Executive Engineer w.e.f. 13.3.2001 and the said representation was forwarded to the 2nd respondent who rejected the same on the ground of 'no work no pay'. Therefore, his request for granting promotion as Assistant Executive Engineer from 13.3.2001 was not acceded to and since his claim for monetary benefits was for the period he has not worked, he was not granted monetary benefits. But he was given notional promotion and he was allowed monetary benefit from the date he was actually performing the functions of the promotional post.

8. This Court has also gone through the judgment rendered by this Court in Crl.A.No.412/2000 dated 25.08.2006. Although, no amount was recovered from the petitioner, as an accused, it appears that it was recovered from his table drawer. In the said judgment, it has been incorporated that P.W.2 stated that he gave money to the accused who counted the same then placed it on the drawer of his table whereas P.W.3 stated that the accused has not received money, but directed P.W.2 to place the money in his table drawer. Therefore, when the petitioner was able to get the judgment of conviction and sentence made by the trial court reversed by this Court in Crl.A.No.412/2000 dated 25.08.2006 and after setting aside the order of conviction by this court, he was reinstated in service, granting notional fixation and allowing the monetary benefits from the date on when he was actually functioning in the promotional post, I find no merit in the Writ Petition.

9. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

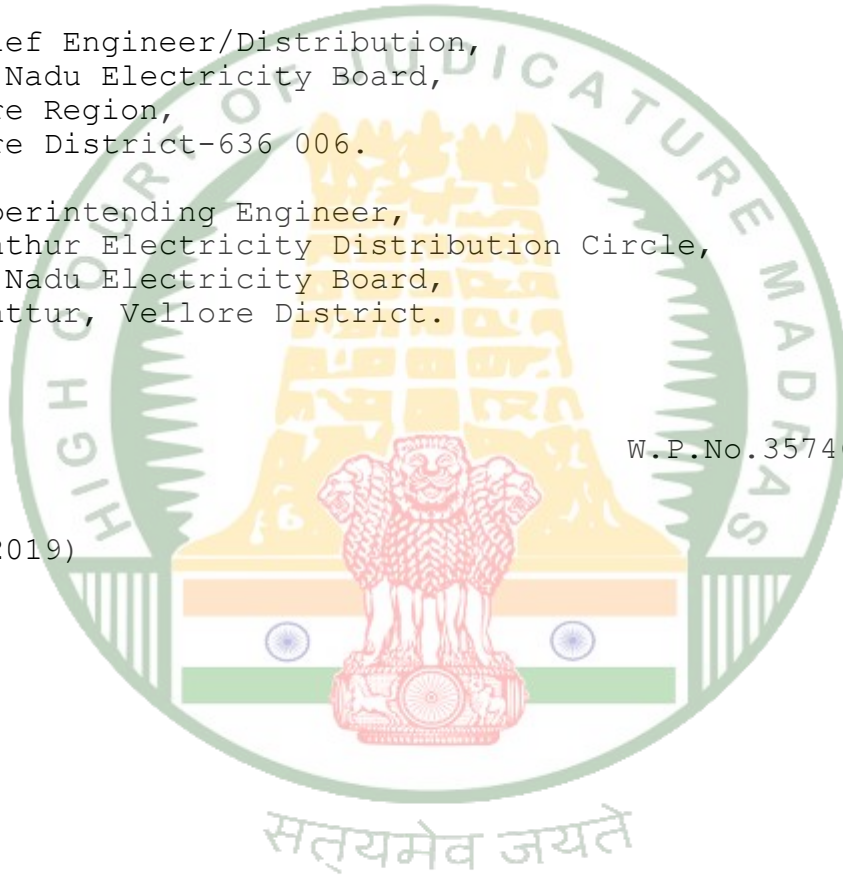
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To

1. The Chairman,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-600 002.
2. The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-600 002.
3. The Chief Engineer/Distribution,
Tamil Nadu Electricity Board,
Vellore Region,
Vellore District-636 006.
4. The Superintending Engineer,
Tirupathur Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirupattur, Vellore District.

W.P.No.35746 of 2007

GJ(CO)
SP(22/04/2019)



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