

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26640 of 2008

K.Kandasamy

.. Petitioner

-vs-

Tamil Nadu Electricity Board
rep.by its Chairman
800, Anna Salai
Chennai 600 002

.. Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent made in B.P.(Ch)No.58 dated 5.3.2007 and quash the portion in para 5 of the order notionally fixing the pay and thereby denying backwages payable for the post of Executive Engineer for the period from 17.3.1997 to 31.08.1999 and direct them to release the same.

For Petitioner : Mr.Y.Ramanaiah for
Mr.G.Elamurugan

For Respondent : Mr.P.R.Dhilipkumar
Standing Counsel

ORDER

This writ petition has been filed by Mr.K.Kandasamy challenging the impugned Board's proceedings (Ch)No.58 dated 5.3.2007, to quash the same, since the impugned proceeding has denied the backwages payable for the post of Executive Engineer for the period from 17.3.97 to 31.8.99, with a consequential direction to pay the same.

2. Learned counsel for the petitioner submitted that when there was an order passed by this Court on 3.1.2007 in Writ Petition No.11502 of 1996 in favour of the petitioner holding that it is a fit case for allowing the prayer of the petitioner and since the petitioner also attained the age of superannuation and retired from service with effect from 31.8.99, only paper

and notional promotion would be given to him, the impugned proceeding dated 5.3.2007 issued by the Secretary, Tamil Nadu Electricity Board denying the backwages for the post of Executive Engineer for the period from 17.3.97 to 31.8.99 is wrong. Therefore, the same is liable to be set aside, he pleaded.

3. In reply, the learned standing counsel for the respondent submitted that when the petitioner came to this Court with Writ Petition No.11502 of 1996 seeking a prayer for issuance of mandamus directing the Chairman, Tamil Nadu Electricity Board, the first respondent therein to include his name above the respondents 2 to 17 in (Per) B.P.(Ch) No.209, Secretariat Branch, dated 31.7.96 for promotion as Executive Engineer/Electrical by issuing appropriate orders, this Court, while allowing the writ petition, taking note of the fact that the petitioner had already attained the age of superannuation and retired from service, directed the respondent to give only paper and notional promotion. By virtue of the order passed by this Court, the Secretary, Tamil Nadu Electricity Board rightly complied with the direction in the impugned proceeding dated 5.3.2007.

4. A perusal of paragraphs 4 and 5 of the impugned proceeding would show that the petitioner's name was included to be promoted as Executive Engineer/Electrical in Category 3, Division-III, Class-I of the Tamil Nadu Electricity Board service with effect from 17.3.97 i.e., the date of joining of his junior Thiru M.Srinivasan, Executive Engineer/Electrical (Retired) and it has been ordered that he is eligible for fixation of pay in the post of Executive Engineer as per note 2 under regulation 37 of the Tamil Nadu Electricity Board Service Regulations. Since he had not actually acted as Executive Engineer, his pay was directed to be fixed notionally with reference to the date of promotion of his junior Thiru M.Srinivasan in the scale of pay of Executive Engineer. Therefore, when the order passed by this Court dated 3.1.2007 in Writ Petition No.11502 of 1996 has been rightly followed, this Court finds no merit in the writ petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Chairman
Tamil Nadu Electricity Board
800, Anna Salai
Chennai 600 002

+1 cc to M/s.S.Elamurugan, Advocate Sr.No.21872
+1 cc to Mr.P.R.Dhilipkumar, Advocate Sr.No.21562

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NRL(CO)
CSL/03.04.2019



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