

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.28207 of 2005

M.Thangaraj

...Petitioner

Vs

1. The Chairman,
No.800, Anna Salai,
Tamil Nadu Electricity Board,
Chennai - 600 002.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode - 9.

...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings made in Memo No.016190/650/Adm.II (1)/2005-1 dated 20.08.2005 issued by the second respondent and quash the same so for it does not include the name of the petitioner and consequently direct the respondents to include the petitioner's name at Serial No.4 in the temporary panel for considering Promotion to the post of foreman Grade - I.

For Petitioner : Mr.G.Ethirajulu

For Respondents : Mr. P.R.Dhilip humar
Standing Counsel for EB
for R1 & R2.

WEB COPY
O R D E R

The impugned panel issued by the 2nd respondent in proceeding dated 20.08.2005 is sought to be quashed in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is appointed as

Helper in the Tamil Nadu Electricity Board on 16.07.1987. The petitioner was having unblemished record of service. While so, on account of a certain filmsy allegations, a Charge Memo was issued by initiating the disciplinary proceedings. The writ petitioner filed W.P.No.40007/2002, and this Court allowed the writ petition and the Charge Memo was set aside. The learned counsel for the writ petitioner states that the pendency of the Charge Memo is a bar for promotion. However, if the Charge memo was quashed, the writ petitioner is entitled to be promoted on par with his immediate junior in the appropriate panel. Since, the respondents are not taken any action to consider the case of the writ petitioner for promotion to the higher post on par with his junior, the petitioner is construed to file the present writ petition.

3.The learned counsel for the petitioner informed this court that the writ petitioner attained the age of Superannuation on 31.04.2018 and now he would be eligible to get notional promotion for the purpose of getting monetary benefits.

4. The learned counsel for the respondent states that the name of the writ petitioner was not considered in the appropriate panel on account of the fact that the writ petitioner was facing the disciplinary proceedings. Thus, there is no infirmity in respect of the order impugned in the writ petition.

5. This Court is of an opinion that undoubtedly, an employee facing the departmental disciplinary proceedings is not entitled to be considered for promotion to the higher post. However, if the disciplinary proceedings are quashed and the delinquent employee was exonerated, then he would be eligible to get promotion on par with his junior with all benefits.

6. This being the Service rules to be followed, the case of the writ petitioner deserves to be considered. Accordingly, the impugned order passed by the 2nd respondent in Memo No.016190/650/Adm.II (1)/2005-1 dated 20.08.2005 is quashed and the respondents are directed to consider the case of the writ petitioner, taking note of the fact that the charge memo itself was quashed and pass orders, granting notional promotion and other consequential benefits if the writ petitioner is fully qualified and there is no other impediment for granting such benefits in accordance with the rules. Such an exercise shall be done by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. The writ petitioner is directed to furnish all the documents, details to the respondents, enabling them to consider this case.

7. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

kak/kmm

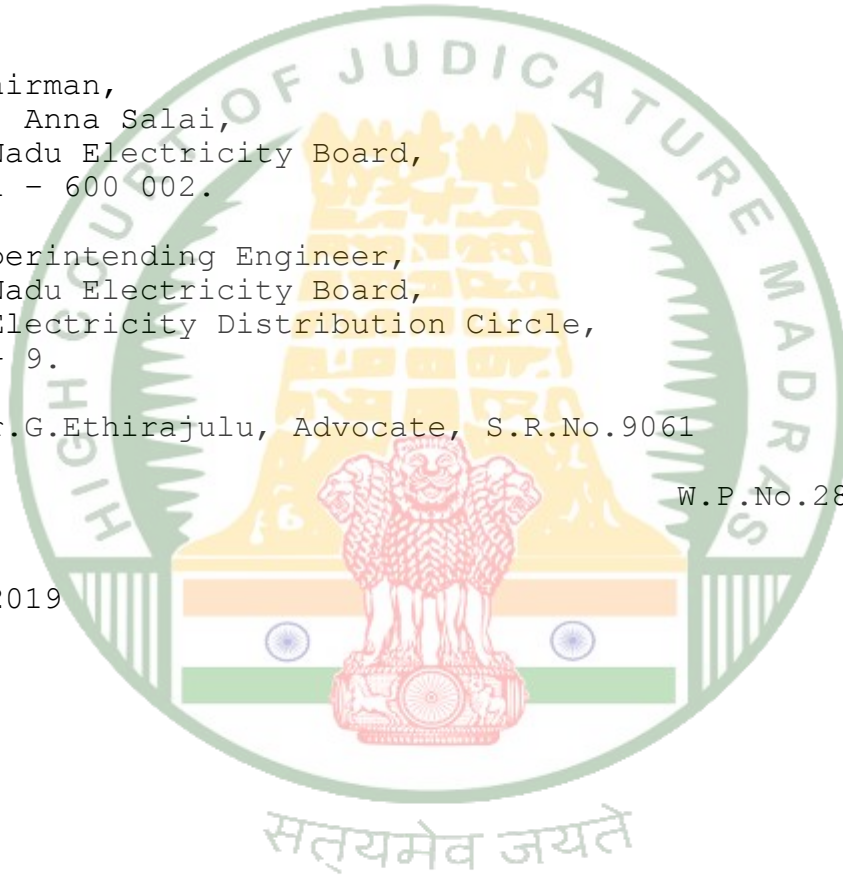
To

1. The Chairman,
No.800, Anna Salai,
Tamil Nadu Electricity Board,
Chennai - 600 002.
2. The Superintending Engineer,
Tamil Nadu Electricity Board,
Erode Electricity Distribution Circle,
Erode - 9.

+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.9061

W.P.No.28207 of 2005

AK (CO)
CS/07/03/2019



WEB COPY