

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.39059 of 2005
and W.P.M.P.Nos.41818
and 41819 of 2005

S.Sengodan

... Petitioner

-vs-

The Superintending Engineer,
Tamilnadu Electricity Board,
Mettur Electricity Distribution Circle,
Mettur Dam - 1. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings made in Ku.Aa.No.Me.Pa.Po./Me/Ni.Pi.2/Vu.2/Ko.Thani/R333/2005 dated 02.09.2005 confirming the proceedings made in Memo No.SEM/Adm.II/A1/F.WM/CA and TO/R./2001 dated 15.06.2001 both on the file of the respondent, quash the same and direct the respondent to promote the petitioner to the post of wireman with effect from 15.06.2001.

For Petitioner :: Mr.S.Doraisamy

For Respondent :: Mr.P.R.Dilipkumar

O R D E R

The order impugned dated 02.09.2005 states that name of the writ petitioner has not been considered for promotion on account of the fact that disciplinary proceedings were pending during the relevant point of time.

2. The writ petitioner was initially engaged as a contract labour during the year 1979 in the respondent Board. Thereafter, he was absorbed in a permanent establishment pursuant to the recommendations of Justice Khalid Committee. The writ petitioner was absorbed in the post of Field Assistant. The next avenue for promotion is to the post of Wireman.

3. The learned counsel for the writ petitioner states that the writ petitioner is fully qualified and eligible for promotion to the post of Wireman. However, his name was deferred on account of the fact that departmental disciplinary proceedings were pending at the time of preparation of panel and consideration of the names of eligible persons for promotion to the post of Wireman.

4. The learned counsel for the writ petitioner relied upon the instructions issued by the respondent in proceeding dated 29.06.2001. On a perusal of the above instructions. It is seen that such instruction was issued by the Additional Chief Engineer, Mettur Electricity Distribution Circle. Instructions issued by the Additional Chief Engineer cannot be construed as rule for the purpose of considering the names of eligible persons for promotion to the post of Wireman. The instructions have no statutory force and further, pendency of disciplinary proceedings is a bar for promotion as per the Board proceedings issued by the Tamil Nadu Electricity Board. Pendency of disciplinary proceedings is considered as a demerit for the inclusion of the name of an employee in the panel for promotion in the present case on hand.

5. Admittedly, the writ petitioner was facing disciplinary proceedings at the time of consideration of his name for promotion to the post of Wireman. Since the facts are admitted, this Court is of an opinion that the case of the writ petitioner shall be considered only after the conclusion of the disciplinary proceedings and he is exonerated from charges. In the event of complete exoneration, the case of the writ petitioner is to be considered retrospectively on par with his immediate junior. In the event of imposing any punishment, the case of the writ petitioner is to be considered only prospectively and not retrospectively. This being the principles to be followed, the writ petitioner has not established any acceptable ground for the purpose of considering the relief as sought in this writ petition.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Superintending Engineer,
Tamilnadu Electricity Board,
Mettur Electricity Distribution Circle,
Mettur Dam - 1.

W.P.No.39059 of 2005
and W.P.M.P.Nos.41818
and 41819 of 2005

AD (CO)
CSL/30.01.2019



WEB COPY