



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.4069 of 2012

and

M.P(MD).No.1 of 2012

V.Ilankumaran

... Petitioner

-Vs-

1.The Chief Engineer/Personnel,
8th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 2.

2.The Chief Engineer,
Distribution, Madurai Region,
Madurai.

3.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirunelveli 11.

... Respondents

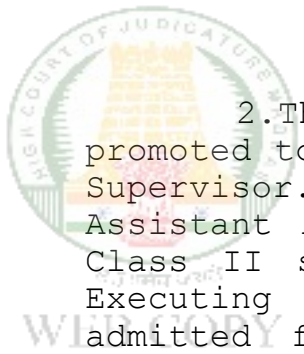
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the letter of the second respondent vide Letter No.015183/1550/எ.1/கோ.கட்டு/2011 dated 08.09.2011 quash the same and consequently, directing the respondents to notionally give effect to the order of promotion passed by the first respondent vide Letter No.071337/576/G31/G312/2009-6 dated 30.01.2010.

For Petitioner
For Respondents

: Mr.C.T.Perumal
: Mr.T.Sakthikumaran
Standing Counsel

ORDER

The relief sought for in the present writ petition is to quash the order, dated 08.09.2011 rejecting the claim of the writ petitioner for grant of notional promotion to the post of Administrative Officer and promoting him to the post of Administrative Officer with effect from the date of order of promotion passed by the first respondent on 30.01.2010.



2.The petitioner was appointed as Junior Assistant and promoted to the post of Assistant and to the post of Administrative Supervisor. The petitioner was finally promoted for the post of Assistant Administrative Officer on 09.06.2006, which comes under Class II service. He was lastly working in the office of the Executing Engineer, Distribution, Rural, Tirunelveli. It is an admitted fact that, the order of promotion promoted the writ petitioner to the post of Administrative Officer was issued by the first respondent in letter, dated 30.01.2010. The writ petitioner reached the age of superannuation and retired from service on 31.01.2010.

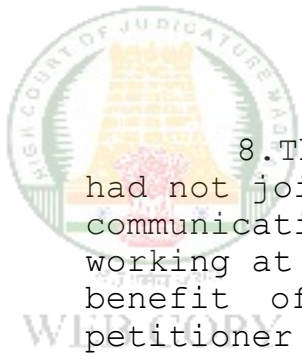
3.In view of the fact that the petitioner could not able to get any posting order on the date of his retirement, he could not able to join duty in the post of Administrative Officer. On the basis of the fact that the petitioner has not joined in the post of Administrative Officer, the benefit of promotion already granted was not extended by the respondents to the petitioner.

4.The learned counsel for the petitioner states that the petitioner was found eligible for promotion to the post of Administrative Officer and he was already promoted to the post of Administrative Officer in proceedings, dated 30.01.2010 and therefore, he is entitled for the benefit attached to the post of Administrative Officer with effect from the date of promotion i.e., on 30.01.2010.

5.The learned counsel for the respondents made a submission that, though the order of promotion was issued on 30.01.2010, there was a delay in communication, on 31.01.2010, the petitioner had worked at Tirunelveli and therefore, he could not able to join in the post of Administrative Officer and thus, the writ petition is to be dismissed.

6.Question arises whether the writ petitioner is entitled for promotion as per the promotion order, dated 30.01.2010.

7.Promotion order once passed in favour of an employee, then the right accrued cannot be denied without any valid reason. In the present case, the right of promotion to the post of Administrative Officer to the petitioner accrued the date, on which, the order of promotion was passed i.e., on 30.01.2010. But, the petitioner retired from service on 31.10.2010. The authority would have permitted the writ petitioner to join in the promoted post of Administrative Officer atleast on 31.01.2010 morning, so that he could have joined in the post and retired. Contrarily, there was a delay in communication and the petitioner was working in Tirunelveli. Thus, he could not able to join, immediately. However, the fact remains that he was actually promoted and therefore, the right accrued in the promotional post cannot be



8.The reasons stated by the respondents that the petitioner had not joined in the present post may be on account of the delay in communicating the order or based on the fact that the petitioner was working at Tirunelveli. Such factors cannot be a ground to deny the benefit of promotion, which was actually granted to the writ petitioner in proceedings, dated 30.01.2010.

9.For all purposes the petitioner is to be construed as a retired Administrative Officer as on 31.01.2010. Certain facts, which are all beyond the control of the employee, cannot be held against their rights. Question arose whether the right accrued to the employee or not. In the present case, admittedly, the right of promotion was granted and order was also passed by the competent authority. But, the petitioner reached the age of superannuation on the next day of promotion and the said reason cannot be a ground to deny the promotion already granted in order, dated 30.01.2010. This being the factum established, the petitioner is entitled for relief. Accordingly, the order impugned passed by the second respondent in letter No.015183/1550/A.1/Ko.Katu/2011, dated 08.09.2011 is quashed and the respondents are directed to treat the writ petitioner as a retired Administrative Officer on 31.01.2010 for all purposes based on the promotion order issued by the first respondent vide letter No.071337/576/G31/G312/2009-6, dated 30.01.2010 and accordingly, grant all terminal and pensionary benefits and revision of pay and pension in accordance with the Rules in force. The said exercise is directed to be done by the respondents within a period of twelve(12) weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Rmk

To

1.The Chief Engineer/Personnel,
8th Floor, NPKRR Maaligai,
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Chennai 2.



2.The Chief Engineer,
Distribution, Madurai Region,
Madurai.

3.The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Tirunelveli 11.

+1cc to Mr.C.T.Perumal, Advocate Sr.No.26510

+1cc to Mr.T.Sakthikumaran, Advocate SR.No.26451

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