



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A. (MD)No.1172 of 2020

and C.M.P. (MD)No.6372 of 2020

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1. The Chairman,
Tamil Nadu Generation and
Distribution Corporation Limited,
No.144, Anna Salai,
Chennai - 600 002.

2. The Chief Engineer/Personnel,
8th Floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai.

3. The Chief Engineer,
Transmission,
8th Floor, NPKRR Maaligai,
No.144, Anna Salai, Chennai.

4. The Superintending Engineer,
General Construction Circle,
TAN TRANSCO, K.Pudur,
Madurai - 7.

... Appellants/Respondents

versus

P.Vijayan

... Respondent/Petitioner

Writ Appeal filed under Clause 15 of Letters Patent,
against the order dated 21.01.2020 passed in W.P.(MD)No.5465 of
2014.

Prayer in WP(MD). 5465/ 2014 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Certiorarified Mandamus, calling for the records relating to the
impugned order in Memo No. 055366/511/G14/2012 dated 25.01.2014 of
the 1st respondent and quash the same as illegal and consequently
direct the 1st respondent herein to provide notional promotion to
the petitioner as Head Draughtsman from 22.06.2013 onwards with
all monetary benefits within a reasonable time as may be specified
by this Court and pass such further or other orders.

For Appellants

: M/s.T.Sakthi Kumaran

For Respondent

: Mr.Manikandan



JUDGMENT

[Judgment of this Court was delivered by N.KIRUBAKARAN, J.]

This appeal has been filed as against the order dated 21.01.2020 passed by the learned Single Judge in W.P.(MD)No.5465 of 2014, by which, a direction was issued to consider the respondent's letter of relinquishment of promotion.

2. Heard Mr.T.Sakthi Kumaran, learned counsel for the appellants and Mr.Manikandan, representing Mr.T.S.Mohammed Mohideen, learned counsel for the respondent.

3. The respondent was due to be promoted as a Head Draftsman from the post of Draftsman. However, taking into consideration the health issues of his wife, he has given a letter on 29.07.2013, relinquishing his right to the higher post and the same was accepted. However, for the reasons best known to the respondent, he has filed an application seeking revocation of relinquishment, by a letter dated 12.08.2013. Since it was not considered, the respondent approached this Court by way of filing a writ petition in W.P.(MD)No.5465 of 2014.

4. Though the learned Single Judge accepted that as per the Fundamental Rules, revocation of relinquishment is not possible and taking into consideration the revocation granted to the co-employee, directed the appellant to consider the case of the respondent, taking into consideration the co-employee's case.

5. Once the learned Single Judge found that as per the Fundamental Rules, revocation of relinquishment is not possible, a direction to violate Rules/Statute cannot be granted. It is a settled law. When that is the position, merely because, a co-employee got same relief contrary to the law, the same cannot be employed to give a direction. Therefore, the direction given by the learned Single Judge has to be set aside.

6. When the Fundamental Rules speak about the non-revocation of relinquishment, the appellant cannot revoke any relinquishment of right by any employee. When this is a position, it is not known under what circumstances, the appellant granted a relief to the co-employee contrary to the Rules. Further, the appellant cannot violate the Rules. Therefore, after following due process of law, the benefit given to the co-employee is also directed to be reconsidered. In view of the Fundamental Rules, there should be parity and there cannot be any inequality and illegality. The illegality should also be directed to be removed. Therefore, this direction is given in public interest.

<https://hcservices.ecourts.gov.in/hcservices/> It is stated by the learned counsel for the appellant



that a person, who got revocation, got it done through Union, whereas, the respondent herein has individually approached and that is the reason why he could not get it. Union cannot act against any Rules and the appellant also cannot violate Rules, merely because, the Union asked for it.

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8. Usually Unions will always fight for rights forgetting duties and Rules. It is a classic case, in which, the Union has fought for violation of Rules and achieved also, whereas, the benefit has not been given to the respondent.

9. In view of that, the appellant is directed to reconsider the revocation of relinquishment given by virtue of order, dated 04.12.2014 to the said employee. Though the said employee is not a party to this writ petition, only for upholding the rule of law, this order has been passed.

10. With the above observations, the Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 cc to Mr.T.Sakthi Kumaran , Advocate SR.No.26542

+1 cc to Mr.T.S.Mohammed Mohideen , Advocate SR.No.26513

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