



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2020

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD)No.5465 of 2014

P.Vijayan

.. Petitioner

Vs.

1.The Chairman and Managing Director,
TANGEDCO, 144, Anna Salai,
Chennai.

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

3.The Chief Engineer,
Transmission,
8th Floor - NPKRR Maaligai,
144, Anna Salai, Chennai.

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

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the 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.

[Prayer amended as per the order dated 06.10.2016 made in W.M.P (MD)No.9851 of 2016].

For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.T.Sakthikumaran

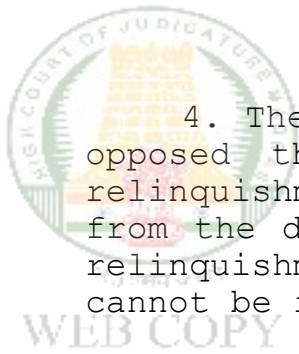


ORDER

This writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Memo No.055366/511/G14/2012 dated 25.01.2014 passed by the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to provide notional promotion to him as Head Draughtsman from 22.06.2013 onwards with all monetary benefits.

2. The case of the petitioner is that he joined in the respondent Corporation in the year 1988 as Assistant Draughtsman and thereafter, promoted as Draughtsman and then, Senior Draftsman. His next avenue for promotion is Head Draughtsman. In June, 2013, a promotion order was issued for two persons, including the petitioner, posting as Head Draughtsman at North Madras Thermal Power Plan, Chennai. But, as there was only one vacancy at Chennai, the petitioner could not join duty at Chennai. The petitioner had submitted a representation requesting the respondents to post him as Head Draughtsman in the vacancy at Madurai, considering the health condition of his wife. But, the respondents had not considered the same and posted one Mrs.Shiyamala at Madurai as Head Draughtsman at Madurai. Then, in order to take care of his wife, he had relinquished his promotion temporarily by making an application on 08.07.2013 and the said request was accepted vide memo, dated 29.07.2013. Thereafter, he made a representation dated 12.08.2013, to the 1st respondent to cancel the relinquishment and to promote him to the post of Head Draughtsman. Since the same has not been considered, he filed W.P(MD)No.19999 of 2013 and this Court directed the 1st respondent to consider the representation of the petitioner and pass orders on merits and in accordance with law. The 1st respondent rejected the representation of the petitioner, vide impugned order, dated 25.01.2014, against which, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that during the pendency of this writ petition, the petitioner attained the age of superannuation on 31.05.2016 and relieved from duty as Senior Draughtsman. He would further submit that though he has relinquished his right, as per Fundamental Rules, the respondents could have revoked the relinquishment on receipt of his representation for revocation and given further promotion. Relying on a memo dated 30.03.2015, which was issued by the respondents Corporation, he further submitted that in similar circumstances, based on a representation of the certain employees and unions to reconsider the revocation of relinquishment of promotion as Special Grade Foreman, orders have been issued to consider the promotion subject to the employees found suitable as a Special case. Therefore, the respondents may be directed to consider the representation of the petitioner in the light of the above memo dated 30.03.2015.



4. The learned counsel appearing for the respondents vehemently opposed the same stating that as per Fundamental Rules, once relinquishment is being given, it will be in force for three years from the date of relinquishment and during the period of temporary relinquishment, the petitioner cannot seek for promotion and it cannot be revoked.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. The petitioner had already made an application on 08.07.2013 for relinquishment and the same was accepted vide memo, dated 29.07.2013. Thereafter, he made a representation to revoke the same, which was rejected, against which, the petitioner has filed the present writ petition on the ground that similarly placed persons' request for revocation was considered vide memo, dated 30.03.2015 and his case may be directed to be considered in the light of the same. In the considered opinion of this Court, the petitioner has got no legal right for revoking the relinquishment. As per the Fundamental Rules, revocation of relinquishment is not possible. However, as there is an order in respect of co-employees to consider the request for revocation of relinquishment, the petitioner is directed to give a fresh representation seeking revocation of relinquishment of promotion within a period of one week from the date of receipt of a copy of this order and on such representation is being made within the time stipulated above, the first respondent is directed to consider the same and pass orders, in the light of Memo.No.073010/526/G.46/G.462/2015-2, dated 30.03.2015, passed by the 2nd respondent, within a period of twelve weeks thereafter.

7. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

gcb

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-2603, dt 23/01/2020)

ORDER MADE IN
W.P(MD)No.5465 of 2014
21.01.2020