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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO. 18695 OF 2009

V.Lenin

..Petitioner

Vs

1. The Chief Engineer, Personnel,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600002.
2. The Chief Engineer (Protection & Communication)
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600002.
3. The Additional Chief Engnieer
(Protection &n Communication),
Tamil Nadu Electricity Board,
Pasumalai, Madurai - 625004.
4. M.Krishnan

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records relating to the 3rd respondent's proceedings made in Memo No. ACE/P&C/MDU/Adm./JA/F.3/D.No. 31/07 dated 09.01.2008 and the consequential order made in Proceedings No. 02124/280/V18/V183/2009-1 dated 26.05.2009 passed by the 2nd respondent and to quash the same and consequently direct the 2nd & 3rd respondents to promote the petitioner to the post of Foreman Grade II by fixing his seniority above the 4th rspodnent from the date when the 4th respondent has been promoted and extend all benefits both service and monetary.

For Petitioner : Mr.G.Ananda Kumar

For Respondents : Mr.P.Subramanian R1 to R3
No appearance - R4



O R D E R

Challenging the proceedings passed by the 3rd respondent in Memo No. ACE/P&C/MDU/Adm./JA/F.3/D.No. 31/07 dated 09.01.2008 and the consequential order made in Proceedings No. 02124/280/V18/V183/2009-1 dated 26.05.2009 passed by the 2nd respondent, the present writ petition is filed to direct the 2nd & 3rd respondents to promote the petitioner to the post of Foreman Grade II by fixing his seniority above the 4th respondent and to extend all benefits both service and monetary.

2. The learned counsel for the petitioner submitted that the writ petitioner was employed as contract labour in the respondent board in the year 1992 and thereafter he was absorbed as Helper on 18.11.1998 into the respondent as per recommendation of the Khalidh Commission. Subsequently, the petitioner was promoted to the post of Instrument Mechanic Grade -III on 03.04.2003 and worked in the office of the Assistant Engineer, Carrier Communication, Pasumalai which is under the control of the 3rd respondent herein.

3. The learned counsel for the petitioner further submitted that the petitioner's name was not included in the promotion panel prepared by the 3rd respondent for the post of Foreman Grade -II. Therefore the petitioner has made a representation on 08.01.2007 to the 3rd respondent, requesting to consider him to the post of Foreman Grade-II as per B.P. 212 dated 06.08.1991, which relates to relaxation of qualification.

4. According to the learned counsel for the petitioner, the petitioner is fully qualified for the promotion to the post of Foreman Grade-II. As per Board Proceedings in B.P.Ms (Ch) No.212 (Sectt.Branch) dated 06.08.1991 he was granted relaxation and given exemption from possessing qualification. Without considering the same, the 3rd respondent excluded his name from the promotion panel list. The learned counsel for the petitioner would further submitted that the persons who are juniors to the petitioner having five years experience have been included in the said panel and were given promotion. Hence the petitioner has preferred an appeal before the 2nd respondent, challenging non inclusion of his name in the panel. The 2nd respondent had rejected the said claim of the petitioner stating that the petitioner has not completed eight years of practical experience as per regulations of the Board. The contention of the petitioner is that his juniors who had only five years of experience were given promotion. Therefore, the said order is arbitrary, illegal and liable to be set aside.



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5. The learned counsel for the petitioner has submitted that the post of Superintendent Engineer was subsequently upgraded to the supernumerary post of Additional Chief Engineer. Hence, the Additional Chief Engineer is shown as 3rd respondent in the writ petition.

6. On the other hand, the learned Standing Counsel appearing for the respondents 1 to 3 has filed counter affidavit on behalf of the 3rd respondent and submitted that the petitioner was placed at Sl.No. 5 in the promotion panel list. The persons placed at Sl.No. 1 to 6 were not promoted as they did not possess the prescribed practical experience and the persons placed at Sl.No. 8 to 11 were promoted based on their practical experience. According the learned Standing Counsel, the petitioner did not possess the required practical experience as per the Regulations of the Board, therefore his name was not considered. Hence, the non inclusion of his name in the panel list is valid and the writ petition is liable to be dismissed.

7. Heard both sides and perused the materials available on record.

8. On a perusal of records, the petitioner was placed at Sl.No.5 in the promotion list prepared for the post of Foreman Grade-II. According to the petitioner, the educational qualification of the petitioner was relaxed at the entry stage, therefore he is eligible for future promotions. As far as practical experience is concerned, as per Regulations of the Board, the minimum practical experience prescribed is eight years and his juniors who have got only five years experience were given promotion to the next level post i.e Foreman Grade-II, which is contrary to the Regulations of the Board.

9. The respondent had not disputed the educational qualification in the impugned order. Further it is stated in the impugned order that on completion of eight years of service, the petitioner's name will be considered for the post of Foreman Grade-II. Even though the 3rd respondent in the counter affidavit disputed the petitioner's educational qualification for the promotion, it is clear from the impugned order that the requirement for the post of Foreman Grade-II is minimum eight years of practical experience. Though the learned standing counsel clarified before this Court that the dispute is only with regard to the possession of practical experience and not the education qualification of the petitioner, it is stated in the counter affidavit that the juniors of the petitioner who were placed at sl.nos. 8 to 11 in the said panel list, have possessed prescribed educational qualification and practical experience at the time of promotion.



10. As the impugned order clearly states that the rejection was made only on the aspect of possession of minimum practical experience and no doubt that the petitioner did not possess eight years of experience as prescribed by the Regulations of the Board at the time of granting promotions, this Court does not find any reason to interfere with the impugned rejection order of the respondent. However, since the respondent had stated in the counter affidavit that the juniors to the petitioner who were given promotion have possessed eight years practical experience, it is for the petitioner to place the relevant records before the appellate authority to disprove the statement by the 3rd respondent in the counter affidavit.

11. In view of the above, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar

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To

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+1cc to Mr.P.Subramanian, Advocate, S.R.No.59286

W.P.No. 18695 of 2009

PL(CO)

RLP(03/12/2021)