

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM :
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

Writ Appeal No.482 of 2012

1. Tamil Nadu Electricity Board,
rep. by its Chairman,
800, Anna Salai, Chennai - 2.
2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai.
3. The Superintending Engineer,
Chennai Electricity Distribution Circle,
Central,
Tamil Nadu Electricity Board,
Chennai - 34.

... Appellants

VS.

1. M.Dayalan
2. B.Kamalasekaran
3. J.Jayabalan
4. S.Sundararajan
5. V.S.Karthikeyan
6. L.Selvinraj
7. D.C.Kamalakaran
8. G.Ekambaram
9. S.Jayakumar

10. V.Bhaskar
 11. S.Murali
 12. V.Kannian
 13. B.Arumugam
 14. A.Dhanasekaran
 15. S.K.Nazimudeen
 16. A.Lawrence Wordsworth Selvaraj
 17. R.Balaji
 18. R.Ravi
 19. M.Martin
 20. G.Rajendran
 21. R.Sreedhar
 22. N.Jayaprabhu
 23. D.Govindaraj
- ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated **13.07.2010** passed by this Court in **W.P.No.12861 of 2001**.

For Appellants : Mr.R.Subramanian

For Respondents 1 to 9 : Mr.V.Stalin

J U D G M E N T

(Judgment of the Court delivered by S.VAIDYANATHAN,J.)

Tamil Nadu Electricity Board, who are the contesting Respondents in the Writ Petition, have come up with the present Appeal, aggrieved by the order dated 13.07.2010 passed by the learned Single Judge in W.P.No.12861 of 2001.

2. Writ Petitioners and Respondents 4 to 17 in the Writ Petition were initially appointed as Helpers in the Electricity Board and have been promoted as Wiremen on different dates. According to the Writ Petitioners, they are seniors to Respondents 4 to 17 and their next avenue of promotion was to the post of Line Inspector or to the post of Instrument Mechanic Grade-I.

3. As per the Regulations of the Tamil Nadu Electricity Board, any person who has worked in the category of Wireman or equivalent to that of a Wireman, having six years experience in the type of work may be considered for appointment to the post of Instrument Mechanic Grade I (or) Wireman or those equivalent to Wireman who are qualified for promotion to the higher post of Line Inspector/Line Inspector equivalent and those who have possessed I.T.I. Certificate of Electrician, Instrumentation working in the post of Wireman or Wireman equivalent, may be deputed for practical training in MRT Section of the Circle as per seniority by fixing a period of six months and after completion of successful training, they can be considered for appointment to the post of Line Inspector/Instrument Mechanic Grade I.

4. It is seen that, Writ Petitioners were involved in field activities and Respondents 4 to 17 in the Writ Petition were working in the MRT Section and so, Writ Petitioners did not have six years of experience as required in the said Regulation for promotion to the post of Instrument Mechanic Grade I. According to the Writ Petitioners, they have not been asked to go for a training and for no fault on their part, they cannot be deprived of promotion.

5. As Respondents 4 to 17 in the Writ Petition were working in the place where training was imparted and that, they have gained experience, their cases have been considered and they were placed above the Writ Petitioners, which, according to the Writ Petitioners is illegal and that, no option has been given by the Electricity Board to enable the Writ Petitioners to attend the training.

6. In the counter filed by the Electricity Board in the Writ Petition, it is stated that, Respondents 4 to 17 had sufficient experience in the type of work for six years and they have been promoted over and above the Writ Petitioners, who have no such experience. After hearing the parties, learned Single Judge posed a question to the learned counsel appearing for the

Electricity Board as to whether any option was offered to the Wiremen either to choose the work in the field activities or in the MRT Section, and the learned counsel for the Board replied that, it was only by chance, Respondents 4 to 17 worked in the MRT Section.

7. The learned Single Judge, after considering the submissions of the learned counsel on either side, came to the conclusion that, the Writ Petitioners are seniors to Respondents 4 to 17 and that, no option was given to the Wiremen to choose either in the Field activity or in the MRT Section and hence, held that, the case of the Writ Petitioners will have to be considered for promotion and disposed of the Writ Petition in the following terms:

“10. In the result, the Writ Petition is disposed of in the following terms:

(i) The Respondents 1 to 3 are directed to treat the promotion of the Petitioners as Line Inspectors with effect from the date on which the Respondents 4 to 17 were promoted as Instrument Mechanic Grade I and to restore the seniority of the Petitioners above the Respondents 4 to 17;

(ii) The Respondents 1 to 3 shall notionally fix their wages for the said post of Line Inspector with effect from the said date for the purpose of fixing the future wages. It is further directed that the Petitioners shall not be entitled for backwages as per the refixation of their wages; and

(iii) It is further directed that, the further promotion from the post of Line Inspector shall be on the basis of the seniority to be restored in the post of Line Inspector in pursuance of this order. No costs.”

8. Mr.V.Stalin, learned counsel appearing for Respondents 1 to 9 herein submitted that, for non-implementation of the order under challenge, Contempt Petition has been filed and the same is pending. He further stated that, the Superintending Engineer of the Appellant/Electricity Board has sent a communication to the Chief Engineer of the Board that, the case of the Writ Petitioners may be considered. It is also represented by Mr.V.Stalin, learned counsel that, out of Respondents 1 to 9 herein, Respondents 5 and 7 viz. V.S.Karthikeyan and D.C.Kamalakannan died and that, Respondents 3, 4 and 8 viz. J.Jayabalan, S.Sundararajan and G.Egambaram, retired from service.

9. We do not want to delve into the statement of the learned counsel appearing for Respondents 1 to 9 herein, as no materials are placed before us. Admittedly, no option was given to the Writ Petitioners to choose either in the Field activity or in the MRT Section, and that, the Writ Petitioners are seniors to Respondents 4 to 17 in the Writ Petition. It is also represented that, Respondents 4 to 17 in the Writ Petition have no grievance in placing the Writ Petitioners above them.

10. It is represented by Mr.R.Subramanian, learned counsel appearing for the Appellants/Electricity Board that, some of the Writ Petitioners have already been promoted to the next stage.

11. Though this Court has condoned the delay in representing and filing of the present Appeal and has also ordered restoration of the Appeal, which was dismissed for default, we are of the view that, there is no need to interfere with the order of the learned Single Judge, as notional benefits have to be extended to the Writ Petitioners. Accordingly, the order dated 13.07.2010 passed by the learned Single Judge in W.P.No.12861 of 2001 is confirmed. However, we make it clear that, the seniority of the Writ Petitioners will have to be notionally fixed over and above Respondents 4 to 17 in the Writ Petition, and notional benefits need to be extended to them.

In fine, the Writ Appeal is dismissed with the above direction. No costs. Consequently, connected M.P.No.1 of 2012 is closed.

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[S.V.N.,J.] [R.V.,J.]
25.10.2021

Index : Yes/No
Speaking Order : Yes/No
(vm/aeb)

**S.VAIDYANATHAN,J.
AND
R.VIJAYAKUMAR,J.**

(aeb)



Judgment in
W.A.No.482 of 2012

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