



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.16317 of 2013

WEB COPY

M.Annavi Muthu

... Petitioner

vs

1. The Chairman cum Managing Director,
TANGEDCO,
Chennai - 2.

2. The Chief Engineer (Distribution),
TANGEDCO,
Tirunelveli Region,
Tirunelveli.

3. The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,
TANGEDCO,
Tirunelveli - 11.

4. The Superintending Engineer,
Thoothukudi Electricity Distribution Circle,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the fourth respondent in Ku.No.004081831/Ni.Pi2/u1/Kvm/2013, dated 22.03.2013 and quash the same and direct the respondents to give notional promotion for the post of Special Grade Foreman with effect from 08.10.2010 with all consequential monetary benefits to the petitioner.

For Petitioner : Mr.K.K.Kannan
For Respondents : Mr.Sakthi Kumaran

O R D E R

This Writ Petition is filed to quash the impugned order, dated 22.03.2013 and direct the respondents to give promotion for the post of Special Grade Foreman with effect from 08.10.2010 and disburse the consequential monetary benefits. The respondents have rejected the claim of the petitioner stating that the petitioner cannot be notionally promoted for the post of Special Grade Foreman since he has already been promoted to Junior Engineer Grade II.



2. The facts of the case are that the petitioner was appointed in the Respondents TANGEDCO on 20.11.1987 as helper. Then he was promoted as Commercial Assistant on 07.05.1992 and then promoted as Commercial Inspector on 25.05.1988 and then as Foreman Grade I on 01.02.2007. Thereafter, the petitioner was transferred to Thoothukudi on 21.12.2008 and the petitioner was promoted as Junior Engineer Grade II, on 07.07.2010. The contention of the petitioner is that while he was working as a Foreman in Tirunelveli, he ought to have been granted next promotion as Special Grade Foreman. If he was allowed to continue in the Tirunelveli District he would get Special Grade Foreman and thereafter, he would have promoted as Junior Engineer Grade II.

3. The respondents have stated that such plea cannot be entertained, since he was granted promotion as Junior Engineer Grade II on 07.07.2010. Based on the seniority list, dated 30.07.2010. If the petitioner is not inclined to take up the promotion as Junior Engineer Grade II, then the petitioner ought to have objected to such promotion prior to his promotion as Junior Engineer Grade II. The petitioner has filed this petition on 30.09.2013, that too after the lapse of nearly three years and prayed to dismiss the writ petition.

4. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents

5. As rightly pointed out by the respondents, the petitioner was granted promotion as Junior Engineer Grade II on 07.07.2010 and the petitioner has challenged in the year 2013, that too after the lapse of nearly three years. Moreover if the petitioner is not inclined to take up the promotion as Junior Engineer Grade II, then the petitioner ought to have objected to such promotion prior to taking up the promoted post as Junior Engineer Grade II. At this stage, the petitioner cannot question his promotion. Hence the claim of the petitioner is rejected.

6. At this juncture, the petitioner has circulated a comparative statement and alleges that there is pay disparity and the same is against the Section 97(b) of the Service Rules. The petitioner has compared his pay with one Mr. Ganesh. Admittedly, both the petitioners and the said Ganesh were drawing Rs.16,000/- (Rupees Sixteen Thousand only) as salary on 01.01.2009. On 01.01.2010, it was same, however, on 02.07.2010, the said Ganesan was drawing Rs.17240/- (Rupees Seventeen Thousand Two Hundred and Forty only) and his basic pay was Rs.4,600/- (Four Thousand and Six Hundred only). But the petitioner was drawing Rs.16,100/- (Rupees Sixteen Thousand and Hundred only) and his basic pay was Rs.4,300/- (Rupees Four Thousand and Three Hundred). The respondents submitted that this issue was not contented in the writ petition.



7. For the above stated reasons the writ petition is dismissed. As far as the pay disparity is concerned the petitioner shall submit a fresh representation and the respondents shall pass an order in the light of Section 97(b) and the Annexures thereunder within eight weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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.

To

1.The Chairman cum Managing Director,
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2.The Chief Engineer (Distribution),
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TANGEDCO, Tirunelveli - 11.

4.The Superintending Engineer,
Thoothukudi Electricity Distribution Circle,
Thoothukudi.

+1 CC to M/s.T.SAKTHIKUMARAN, Advocate (SR-39365[F]
dated 17/12/2021)

+1 CC to M/s.K.K.KANNAN, Advocate (SR-39367[F] dated 17/12/2021)

Order made in

W.P. (MD)No.16317 of 2013

17.12.2021

KMV (CO)

GC(11.01.2022) 3P 7C

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