



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.18610 of 2013

WEB COPY

R.Ramalingam

... Petitioner

vs

1.The Chief Engineer/Personnel

TANGEDCO,
Administrative Branch,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Madurai Electrical Distribution Circle/Metro,
Madurai - 7.

3.The Commissioner,
Madurai Corporation,
Madurai.

... Respondents

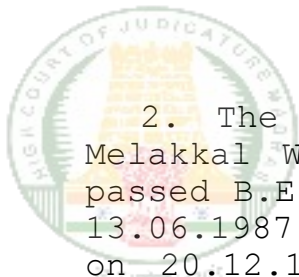
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings made in Memo.No.048556/557/G.18/G.181/2013, dated 24.10.2013 passed by the first respondent and quash the same and consequently, direct the first respondent to reconsider the petitioner's seniority in the list of Assistant Engineer in terms of the order mde in Memo. No. SE / MEDC / Metro /Admnl/A3/ F.Probation / D.no.1858/05, dated 22.07.2005 by the second respondent and refix everything in terms of the same and to provide all attended benefits to the petitioner.

For Petitioner : Mr.P.R.Prithvi Raj

For Respondents : Mr.Sakthi Kumaran, for R1 and R2
Mr.K.Govindarajan, for R3

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings, dated 24.10.2013 and consequently, direct the first respondent to reconsider the petitioner's seniority in the list of Assistant Engineer in terms of the order, dated 22.07.2005 by the second respondent and refix everything in terms of the same and to provide all attended benefits to the petitioner.



2. The petitioner was appointed as Electrical Superintendent, Melakkal Water works, Madurai Corporation on 07.10.1971. He had passed B.E., degree in the year 1984 then promoted as Supervisor on 13.06.1987 and then as Assistant Engineer by the Madurai Corporation on 20.12.1990. The petitioner raised an objection vide letter, dated 21.01.1991, that he should have been promoted as Assistant Engineer in the year 1987 itself. Based on G.O.Ms.No.1540 (Rural Development and Local Administration Department), dated 06.10.1980 which holds that those persons who are holding B.E. Degree and working as Supervisor are re-designated as Assistant Engineer. The grievance of the petitioner is instead of re-designating his service with effect from 1987, the third respondent Corporation promoted the petitioner as Assistant Engineer on 20.12.1990. Thereafter, the Electricity Department under the control of the third respondent was taken over by the Tamil Nadu Electricity Board, vide G.O.Ms.No.151, dated 30.04.1995 and the petitioner was relieved from Corporation on 23.03.1998, vide Memo, dated 13.03.1998. Since the petitioner was not granted the post of Assistant Engineer from 1987 onwards, inspite of repeated requests. The petitioner approached this Court, vide order, W.P.No.5450 of 2007, directing the first respondent to consider the petitioner's claim and the same was rejected.

3. Aggrieved over the same, the petitioner preferred another writ petition in W.P.No.7644 of 2007 and this Court allows the writ petition, vide order, dated 09.04.2013 thereby set aside the order passed by the first respondent, dated 16.07.2007. Thereafter, the respondent has considered the entire claim of the petitioner and has passed the present impugned order, dated 24.10.2013 where it has been clarified that the petitioner is not entitled to. Aggrieved over the same, the present writ petition is filed.

4. The respondents have filed a detailed counter affidavit substantiating the impugned order, dated 24.10.2013.

5. Heard Mr.P.R.Prithvi Raj, learned Counsel appearing for the petitioner and Mr.Sakthi Kumaran, learned Counsel appearing for the respondents 1 and 2 and Mr.K.Govindarajan, learned Counsel appearing for the third respondent

6. On perusing the impugned order, in para 12, it has been clearly stated that the petitioner is not entitled to and the relevant portion is extracted hereunder.

" 12. Further, it is informed that he has been actually promoted as Assistant Engineer in the time scale of Rs.2150-85-2575-95-3050-105-3680 from the post of Supervisor on 20.12.1990 vide 'L FORM' from Commissioner of Madurai Corporation and has been absorbed in Board in the post Assistant Engineer vide permanent B.P.No.(FB)No.31, dated 18.08.1997 as he was holding the post Assistant Engineer in the time scale of Rs.2150-85-2575-95-3050-105-3680 at the time of



absorption on the vesting date 30.04.1995. Hence the seniority will count only from 20.12.1990. The date of joining in the Madurai Corporation in the post of Assistant Engineer and not as requested by the petitioner from 13.06.1987. The Board has fixed the seniority after taking into account his date of joining of Assistant Engineer at the Madurai Corporation, which is an equivalent identical time scale of TNEB on par with Assistant Engineer/Electrical in Madurai Corporation. Even if he has been redesignated and continued in the time scale of Rs.16550-55-1925-65-2770, which is equivalent to JE II Grade in TNEB and he is actually coming to the Assistant Engineer time scale only on 20.12.1990 due to his actual promotion to the post of Assistant Engineer at Madurai Corporation. In as much as completion of probation of the individual was already issued in the post of Supervisor by Madurai Corporation there is no necessity to issue again another completion of probation. However, as the nomenclature of the degree holder of the Supervisors have been changed as per G.O.MS.No.1540 (Rural Development and Local Administration Department) dated 16.10.1980, the Superintending Engineer/Madurai EDC/Metro has issued again the completion of probation in the redesignated Assistant Engineer category which is in line with his completion of probation issued by the corporation in the category of Supervisor redesignated as Assistant Engineer only. But as the scale of pay, powers and function remain unchanged he had been continued in the time scale of pay of JE II Grade upto his actual promotion to the post of Assistant Engineer in the time scale of Rs.2150-85-2575-95-3050-105-3680 at Madurai Corporation. The actual date of assuming the powers, pay structures and fixation of Assistant Engineer is only on 20.12.1990 at Madurai Corporation and the same dated reckoned for the seniority in TNEB which is in order."

7. The Board has fixed the seniority after taking into account his date of joining in the post of Assistant Engineer at Madurai Corporation, which is having an equivalent identical time scale of pay at TNEB. Even if the petitioner is re-designated as Assistant Engineer on 13.06.1987 i.e., the date of joining of Supervisor, he would have been continued in the time scale of pay of Rs.1650-55-1925-65-2770, which is equivalent to Junior Engineer Grade-II and the petitioner is actually coming under the Assistant Engineer time scale only on 20.12.1990, due to his actual promotion to the post of Assistant Engineer at Madurai Corporation.



8. The petitioner has claimed the promotion for the year 1987 and has challenged in the year 2013 and the claim is hit by latches. The petitioner is claiming the promotion, when the distribution of electricity is with the Madurai Corporation and the distribution of electricity was transferred to TNEB on 30.04.1995. At this stage seeking the promotion for the year 1987 would unsettle the settled seniority.

9. This Court is of the opinion that there is no infirmity in granting promotion from 1990 onwards, since the petitioner's actual promotion to the post of Assistant Engineer at Madurai Corporation only on 20.12.1990. Moreover promotion will be granted whenever there is vacancy and the employee cannot claim promotion as a right. The petitioner has the right to be considered for promotion, but promotion is not a right.

10. For the reasons stated above this Court dismiss the writ petition. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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 Chief Engineer/Personnel
TANGEDCO,
Administrative Branch,
144, Anna Salai,
Chennai - 600 002.

2.The Superintending Engineer,
Madurai Electrical Distribution Circle/Metro,
Madurai - 7.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The Commissioner,
Madurai Corporation,
Madurai.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-37675[F] dated 07/12/2021)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-37971[F]
dated 09/12/2021)

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-37792[F]
dated 08/12/2021)

Order made in
W.P. (MD) No.18610 of 2013
07.12.2021

PK (CO)
GC(12.01.2022) 5P 7C