



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.7155 of 2020

and

W.M.P. (MD) Nos.6591 & 6592 of 2020

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S.Jebasingh Rajan ... Petitioner

-vs-

- 1.The Chairman
Tamil Nadu Electricity Board
No.144, Anna Salai
N.P.K.R.R.Maligai
Chennai-600 002
- 2.The Chief Engineer (Personnel)
TANGEDCO
No.144, Anna Salai
N.P.K.R.R.Maligai
Chennai-600 002
- 3.The Superintending Engineer
O/o.Superintending Engineer
Metro, TANGEDCO
Madurai Region, K.Pudur
Madurai District-600 007
- 4.The Assistant Engineer
O/o.Assistant Engineer (Distribution)
Sindhamani TNEB Division
TANGEDCO
Madurai District
- 5.The Superintending Engineer
Nagercoil Electricity Distribution Circle
TANGEDCO, Bharvathipuram
Nagercoil, Kanyakumari District
- 6.The Executive Engineer
TANGEDCO
Bharvathipuram Division
Nagercoil
Kanyakumari District-629 001
- 7.The Executive Engineer
South Division, TANGEDCO
Subramaniyapuram
Madurai City



8.The Assistant Executive Engineer
(Distribution)
Kottaram
Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned Memo No.UmiPO/Pa/Sindh/VA.U/Ko.1/A.No.501/2020, dated 17.06.2020, on the file of the fourth respondent and quash the same as illegal and consequently direction directing the respondents to permit the petitioner to continue his service in the promotion post of Inspector of Assessment at the fourth respondent office in the light of the promotion order passed by the third respondent in Memo No.171/M3.Po/MaMiPaVa/Peru/Madu/NiA/NiPil/U1/2020, dated 07.05.2020.

For Petitioner : Mr.I.Pinaygash
For Respondents : Mr.T.Sakthi Kumaran
Standing Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the Memo, dated 17.06.2020, issued by the fourth respondent and consequently, to direct the respondents to permit the petitioner to continue his service in the promotion post of Inspector of Assessment at the fourth respondent office in the light of the promotion order, dated 07.05.2020, passed by the third respondent.

2. According to the petitioner, on 30.08.2020, he was appointed as Assessor (Second Grade) in the respondent Electricity Board and thereafter, he served as I-Grade Reserve Assessor at Kottaram, Nagercoil, Kanyakumari District. During 2019, while preparing panel for promotion to the post of Inspector of Assessment from the post of Assessor, the petitioner's name was considered and included in the panel list. The crucial date for considering promotion to the said post was 20.03.2019. Thereafter, the petitioner was promoted to the post of Inspector of Assessment on 07.05.2020. But, suddenly, without any notice to the petitioner, the fourth respondent passed the order dated 17.06.2020 reverting back the petitioner to the original post of Assessor on the ground of pendency of punishment of stoppage of increment for one year without cumulative effect against the petitioner. Challenging the said reversion order, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner would submit that the impugned reversion order is illegal, arbitrary and without jurisdiction. The act of the fourth respondent in passing the impugned reversion order is utter violation of the principles of natural justice, since before passing the impugned order, no

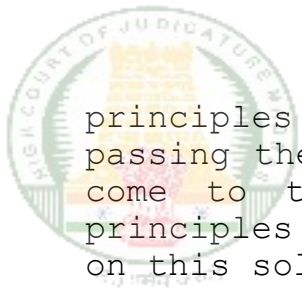


opportunity of hearing was granted to the petitioner to put forth his defence. Without providing any opportunity, the fourth respondent has passed the impugned order and therefore, prayed for setting aside the impugned order passed by the fourth respondent.

4. The learned Standing Counsel appearing for the respondent Electricity Board, while reiterating the counter affidavit filed by the respondents, submitted that the petitioner was facing disciplinary proceedings and punishment of withholding of increment for one year without cumulative effect was imposed on him vide proceedings dated 28.02.2020. Thereafter, on 07.05.2020, the petitioner was promoted to the post of Inspector of Assessment. However, as per the clarification circular dated 08.01.2013, issued by the respondent Electricity Board, charges framed under regulation 8(b) of the Tamil Nadu Electricity Board Employees D&A Rules and any of the punishment awarded after the crucial date but before the actual promotion shall also be held against the officer / employee. Therefore, the fourth respondent has rightly passed the reversion order and it does not require any interference of this Court.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. The petitioner was appointed as Assessor Second Grade on 30.08.2020 in the respondent Electricity Board and he was working as I-Grade Assessor in Kanyakumari District. During 2019, panel for promotion to the post of Inspector of Assessment was prepared and the petitioner's name was also considered and included in the said panel. The crucial date for the promotion was 20.03.2019. Subsequently, on 07.05.2020, the petitioner was promoted as Inspector of Assessment. At that time, the fourth respondent has passed the order dated 17.06.2020 reverting back the petitioner to the original post i.e. Assessor, on the ground of pendency of punishment of stoppage of increment for one year without cumulative period against the petitioner. According to the petitioner, before passing the impugned reversion order, he was not afforded with any opportunity of hearing and without notice to him, the impugned order has been passed. On the other hand, the learned Standing Counsel submitted that inadvertently, the petitioner was given promotion. As per the clarification circular, dated 08.01.20213, any of the punishment awarded after the crucial date, but before the actual promotion, shall be held against the officer / employee. Therefore, on coming to know about the punishment imposed on the petitioner, the respondent has rightly passed the impugned order and hence, it does not suffer from any infirmity. However, on perusal of the impugned reversion order it is seen that the impugned order does not contain any reference to show that the petitioner was afforded with opportunity of personal hearing to put forth his case before passing the said order. Therefore, as rightly pointed out by the learned counsel appearing for the petitioner, there is a violation of



principles of natural justice on the part of the respondents while passing the impugned order. Hence, this Court has no hesitation to come to the conclusion that the respondents have violated the principles of natural justice while passing the impugned order and on this sole ground, the impugned order is liable to be quashed.

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7. Accordingly, this Court passes the following orders:

- (i) The writ petition is allowed;
- (ii) The impugned order, dated 17.06.2020, passed by the fourth respondent, is quashed;
- (iii) It is open to the respondents to provide opportunity of personal hearing to the petitioner and pass appropriate orders on merits and in accordance with law;
- (iv) Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order;
- (v) In view of the interim order of stay granted at the time of admission of this writ petition and setting aside of the impugned order, it is open to the petitioner to workout his remedy for the other grievances, if any, before the respondents in the manner known to law.
- (vi) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

KRK

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
Tamil Nadu Electricity Board
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Chennai-600 002

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



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South Division, TANGEDCO
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Madurai City

8.The Assistant Executive Engineer
(Distribution)
Kottaram
Kanyakumari District

+1 CC to M/s.I.PINAYGASH, Advocate (SR-31599[F] dated 07/10/2021)

+1 CC to M/s.T.SAKTHIKUMARAN, Advocate (SR-31871[F]
dated 08/10/2021)

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