



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 17.09.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.S. SUNDAR**

**W.P. (MD) .No.19179 of 2016**

K.Kanthavel

...Petitioner

.Vs.

1.The Superintending Engineer,  
Tamil Nadu Generation & Distribution Corporation,  
Ramanathapuram Electricity Circle,  
Ramanathapuram 623503.

2.The Executive Engineer,  
Tamil Nadu Generation & Distribution Corporation,  
Paramakudi-623707  
Ramanathapuram District.

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1<sup>st</sup> respondent bearing Ku.No.007566/UNIA/Ni.P.1/u.2/2015 dated 24.08.2015 and quash the same and subsequently, direct the first respondent to grant one additional increment to the petitioner for passing the Account Tet for Subordinate Officers Part 1 from the date of appeared the examination within a reasonable time fixed by this Court.

For Petitioner :Mr.M.Gnanagurunathan  
For R1 & R2 :Mr.T.S.Gopalan

**ORDER**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent bearing Ku.No.007566/UNIA/Ni.P.1/u.2/2015 dated 24.08.2015 and to direct the first respondent to grant one additional increment to the petitioner for passing the Account Test for Subordinate Officers Part 1.

2.The petitioner was appointed as Assistant in Tamil Nadu Magnesium and Marine Chemicals Ltd (TMML), Ramanathapuram, in the year 1987. The said plant was subsequently shutdown on 31.01.1993, due to some technical and financial problem. The Government of Tamil Nadu issued G.O.Ms.No.59, Industries (MIF-2) Department, dated 20.02.1997, to absorb the petitioner and other employees of M/s.TMML, in other Corporations/Boards including State Transport Corporation in suitable posts. The petitioner was absorbed as Assessor in the respondent Board, as per the proceedings dated



31.12.2001. It is admitted that the petitioner joined duty in the respondent Board on 19.01.2002 and retired on 31.05.2016.

3.It is the case of the petitioner that as per proceedings of the respondent Board vide B.P.No.750 dated 30.04.1979, the Assessor, who passed the Account Test for Subordinate Officers Part 1, is eligible for one additional increment. Therefore, the petitioner sought for information under the Right To Information Act, 2005. He also produced the communication received from the office of the Chief Engineer (Personnel) on 24.02.2011, before this Court. Since the communication received from the respondents shows that the petitioner is also eligible to get incentive increment for having passed in Account Test, it is contended before this Court that the respondents are denying the benefit to the petitioner arbitrarily. The petitioner submitted a representation to the second respondent on few occasions. It is stated that the petitioner was also asked to produce the documents relating to the Account Test for Subordinate Officers Part 1 passed by the petitioner. By the impugned order dated 24.08.2015, the respondents rejected the petitioner's request to grant one additional increment for passing the Account Test for Subordinate Officers Part 1. Challenging the same, the above writ petition is filed.

4.The learned counsel appearing for the petitioner relied upon the communication that was addressed to the petitioner in response to the application filed by the petitioner under RTI Act. The question raised by the petitioner was whether the Assessor is entitled to get additional increment for passing Account Test. The answer given by the Chief Engineer of the Electricity Department is to the effect that if the Assessor completes the account test for Subordinate Officers Part I, is entitled to get additional increment.

5.The learned counsel appearing for the respondents submitted that the petitioner does not come under any category of posts which have been in B.P.No.750, dated 30.04.1979. In other words, the post of Assessor is not one of the posts mentioned in the proceedings vide B.P.No.750 dated 30.04.1979 to which grant of advance increment was sanctioned. It is further submitted that the information furnished to the petitioner under RTI Act was mistaken and on that the petitioner cannot take advantage of the information vide communication dated 24.02.2011. It is the case of the petitioner that the petitioner is an Assessor and hence, entitled to get advance increment, by virtue of the proceedings vide B.P.No.750 dated 30.04.1979. The Board proceedings dated 30.04.1979 does not confirm any benefit to the Assessor by way of advance increment. Merely because, one of the officer of the respondents has responded to the request of the petitioner in favour of the petitioner that alone will not enable the petitioner to claim advance increment for passing in account test for Subordinate officers Part I. Except the



under RTI Act, no other document or materials or proceedings of the Board is produced before this Court to prove that the petitioner is eligible to receive advance increment for passing the Account Test for Subordinate Officers part I.

6.It is well settled that there is no estoppel against Statute. When there are no rule to favourably consider the request of the petitioner, increment cannot be directed to be given. Unless it is established before this Court that the respondents are denying the benefit to which the petitioner is entitled to by virtue of any rule or orders authorised by a Statute or competent authority empowered to act, it is not open to the petitioner to take advantage of mere information unsupported by Service Rules.

7.Since the respondents have stated before this Court that the information furnished to the petitioner under RTI Act is a mistake, this Court cannot issue a positive direction in favour of the petitioner to grant relief, which is not supported by any Board proceedings or an order of any authority of the Electricity Board in exercise of their power under a Statutory or the power vested with them as the appointing authority under the relevant Service Rules. The petitioner has not established any statutory or contractual obligation to be enforced. Therefore, this Court is unable to find any merits in the writ petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

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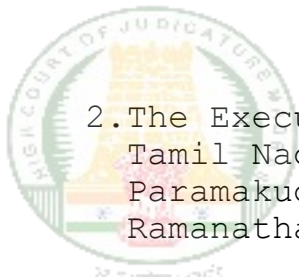
Sub Assistant Registrar(CS)

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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 Superintending Engineer,  
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Ramanathapuram Electricity Circle,  
Ramanathapuram 623503.



2.The Executive Engineer,  
Tamil Nadu Generation & Distribution Corporation,  
Paramakudi-623707  
Ramanathapuram District.

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-29531[F]  
dated 17/09/2021)

+1 CC to M/s.SPL. GP (SR-29747[F] dated 21/09/2021)

W.P. (MD) .No.19179 of 2016  
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