



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.2700 of 2014

J.Sakthivel

... Petitioner

Vs

1 The Chairman cum Managing Director
TANGEDCO
No.144, Anna Salai,
Chennai-2.

2 The Chief Engineer (Personnel)
TANGEDCO
No.144, Anna Salai,
Chennai-2.

3 The Superintending Engineer
Salem Electricity Distribution Circle
TANGEDCO, Salem-14.

4 R.Shanmugam

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order made in Memo No.048554/ 547/ G.46/G.462/ 2013-2 dated 17.11.2013 passed by the 2nd respondent and the consequential order made in Memo No.025113/ 783/ Adm.II/ A.2/ F.WM (Gen)/ 2013-2 dated 11.12.2013 passed by the 3rd respondent and quash the same as illegal without jurisdiction and arbitrary and consequently direct the respondents 1 to 3 to place the 4th respondent in Wireman cadre in Serial Number 119 in the Seniority List as on 30.11.2013.

For Petitioner

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Mr.G.Ananda Kumar

For Respondents

...

Mr.P.Subramanian,

Standing counsel,

for respondents 1 to 3

Mr.Balan Haridas,

for the fourth respondent



O R D E R

The case of the petitioner is that he was appointed as Helper in the respondent Electricity Board on 12.09.1996 and subsequently promoted as Wireman on 02.06.2000. The next avenue of promotion was to the post of Lineman. The third respondent had issued a seniority list of Wireman as on 30.11.2013 and according to the list, the petitioner's serial number was mentioned as 67 as against the fourth respondent's serial number of 119.

2. In pursuance of settlement between the respondent Electricity Board and its employees, a double channel of promotion was introduced with the creation of a new post called Assistant Commercial Inspector. The post was stated to be equal to the post of Lineman which was the normal promotional cadre to the post of Wireman. The post of Assistant Commercial Inspector came to be abolished with effect from 01.12.1992 but the same had been restored once again by the Board's proceedings dated 09.04.1996. There was also a subsequent settlement dated 15.10.2005 wherein two channels of promotion was allowed viz., Helper - Commercial Assistant-Commercial Inspector - Foreman Grade-I and Helper - Wireman - Line Inspector - Foreman Grade-I.

3. While the matters stood thus, the fourth respondent appeared to have made a request to the officials seeking for conversion of his Wireman post to that of Commercial Assistant post. In response to the same, the second respondent by order dated 17.11.2013 has issued conversion order, as requested by the fourth respondent. Subsequent to the conversion order, the third respondent vide proceedings dated 11.12.2013, has allotted him to the third respondent circle.

4. The grievance of the petitioner herein is that several persons have made request for conversion of their posts. However, the Board has not acceded to their request for conversion. According to the petitioner, there are 118 persons senior to the fourth respondent and for them, no conversion was ordered, and that included the petitioner also. By virtue of his conversion, the fourth respondent will get further promotion to the post of Foreman Grade-I within four to six years. Challenging the order of conversion and posting of the fourth respondent as Commercial Assistant, the petitioner is before this Court.

5. Notice has been issued, and on behalf of the contesting respondent, viz., the fourth respondent, counter-affidavit has been filed. In paragraph No.4 of the counter-affidavit, the settlement reached between the employees and the Electricity Board in 2003 providing two channels of promotion had



been stated. One channel is Helper to Commercial Assistant and then to Commercial Inspector. The other channel is Helper to Wireman and then Line Inspector.

6. The entire facts which resulted in the culmination of the conversion order have been stated in paragraphs 4 to 6. The said paragraphs are extracted hereunder:

"4. It is submitted that in the respondent Corporation the entry level post in Technical side is the post of Helper. In the said post there were qualified and unqualified employees. During the year 2005 a settlement under Section 12(3) of the Industrial Disputes Act, 1947 was entered on 15.10.2005. The settlement provided for two channel of promotion from the Helper category and the same is as follows:

Helper	
Commercial Assistant	Wireman
Commercial Inspector	Line Inspector

Based on the above Settlement, the Respondent Corporation issued Proceedings (then Board) No.256 dated 12.12.2005. As per the proceedings, the Helper should exercise their option within one month either to opt for promotion to the post of Commercial Assistant or Wireman. In case of Commercial Assistant if they do not exercise their option within one month it will be deemed to opted for Commercial Assistant Commercial Inspector-Foreman I Grade. Similarly, if no option is received from the Wireman, they will be also deemed to have opted for Wireman-Line Inspector.

5. It is submitted that owing to my health condition I could not do the work of Wireman which involves climbing poles etc. In such circumstances, I made representation to the Respondent Corporation to convert me to Commercial Assistant Post on health grounds. The Commercial Assistant post is basically clerical nature of work. The respondent Corporation taking note of my request, issued order dated 17.11.2013 converting me from Wireman post to Commercial Assistant post. The said order makes it clear that I will



climbing a pole, fell down and sustained fracture injuries on his shoulder. Therefore, he could not perform the duties of Wireman. Only after taking note of the health condition of the fourth respondent that his request for conversion of post to Commercial Assistant was acceded to, through the impugned order. Such orders are in compliance with the provisions of the Rights of Persons with Disabilities Act, 2016. The learned counsel would also submit that the petitioner was promoted to the post of Line Inspector much before the fourth respondent got his promotion to the post of Commercial Inspector. The learned counsel would therefore submit that the petitioner's apprehension that by virtue of conversion, the fourth respondent would be given undue promotion to next higher post is contrary to facts. Moreover, the learned counsel also lay emphasis that conversion granted on medical grounds to the fourth respondent cannot be questioned by the petitioner.

8. This Court has considered the inter-se claims of the parties and is in agreement with the submissions made by the learned counsel for the fourth respondent. The petitioner cannot entertain any grievance against the conversion of the fourth respondent's post as Commercial Assistant which was ordered purely on consideration of his health grounds. Moreover, it is not stated as to how the promotional chances of the petitioner would get affected by the conversion of the post of fourth respondent from that of Wireman to Commercial Assistant, and thereafter to Commercial Inspector.

9. The action converting the post of a person from one channel to the other channel is purely within the discretion of the management, and once it is established that it has been ordered in respect of the fourth respondent in consideration of medical grounds, the petitioner cannot nurture any grievance against the same. The apprehension of the petitioner that his promotion would likely be delayed, and on the other hand, the fourth respondent's promotion would get accelerated, cannot be the reason for questioning the conversion of the post of fourth respondent as Commercial Assistant and his further promotion to the post of Commercial Inspector. Such claim appears to be far-fetched, which is not legally acceptable for interfering with the impugned order of conversion of post.

10. In fact, this Court is also in agreement with the submission made on behalf of the fourth respondent that the petitioner may not have locus standi to question the conversion ordered in favour of the fourth respondent. In case, his claim has not been considered favourably for conversion, it is up to



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the petitioner to workout his remedies in the manner known to law. But at the same time, it is certainly not open to him to challenge the conversion of the post in respect of the fourth respondent on the ground that his request and similar placed workmen's request, have not been considered.

11. This Court is of the considered view that there is no cause of action for the petitioner to complain against the conversion of the fourth respondent's post. In case the petitioner is aggrieved, and any request of his in this regard had not been considered favourably, it is up to him to agitate his rights, but on that plea, he cannot seek to upset the orders of conversion passed in favour of the fourth respondent.

12. On the whole, this Court finds that there is no merit in the writ petition and the same is dismissed. There will be no order as to costs. Consequently, M.P.Nos.2 and 3 of 2014 are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

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Salem Electricity Distribution Circle
TANGEDCO, Salem-14.

+lcc to Mr.Balan Haridas, Advocate SR.No.11844

+lcc to Mr.P.Subramanian, Advocate SR.No.12173

W.P. No.2700 of 2014

PMK (CO)

CB(29/03/2022)