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W.P.No.31541 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31541 of 2017
and W.M.P.No.34660 of 2017

A.Elangovan

...Petitioner

Vs.

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer/ (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

3.The Chief Financial Controller/General
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai – 600 002.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records connected with the impugned Memo No.043259/257/G.30/G.301/2017-1 dated 15.9.2017 ,



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passed by the 2nd respondent and quash the same and direct the 2nd respondent to include the name of the petitioner, in the appropriate place, in the approved panel for promotion to the post of Chief Stores Officer, for the year 2016/17 in (Per). CMD TANGEDCO Proceedings No.94 (Administrative Branch), dated 29.5.2017 and thereby promote the petitioner as Chief Stores Officer, on par with his Junior Thiru.S.Rajangam.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.P.Subramanian
for TANGEDCO

ORDER

The order of rejection rejecting the claim of the writ petitioner for inclusion of his name in the panel for promotion to the post of Chief Stores Officer for the year 2014-15 and 2015-16 is under challenge in the present writ petition.

2.The petitioner states that he passed ITI Fitter Trade in the year 1984 and he was selected and appointed as Helper in the Tamil Nadu Electricity Board. The petitioner was subsequently appointed as Stores Custodian Grade II and thereafter, promoted to the post of Stores Custodian – Grade I. The petitioner



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was further promoted as Stores Supervisor on 30.06.2007 and he was promoted as Stores Officer in the year 2012. The petitioner states that he is fully qualified for promotion to the post of Chief Stores Officer.

3.The learned counsel for the petitioner mainly contended that the crucial date of preparation of panel for promotion to the post of Chief Stores Officer is 5th May of every year. The case of the writ petitioner was not considered erroneously, despite the fact that there was no impediment for inclusion of his name in the panel of the year 2014-15. The petitioner was imposed with the punishment of stoppage of increment for three months without cumulative effect in respect of minor allegations in proceedings dated 01.16.2015. The said punishment is to be implemented from the date of punishment and on expiry of three months period, the case of the writ petitioner is to be considered for inclusion of his name in the panel for promotion to the post of Chief Stores Officer. Accordingly, the case of the writ petitioner ought to have been included in the panel of the year 2016-17 for promotion to the post of Chief Stores Officer. Despite the fact that the period of punishment expired, the case of the writ



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petitioner was not considered in the panel for the year 2016-17. However, the petitioner was considered in the panel of the year 2018-19 at belated point of time and thus, the petitioner was denied his right of promotion during the relevant point of time when the panel was prepared for promotion to the post of Chief Stores Officer.

4.The learned counsel for the petitioner made a submission that the juniors to the petitioner were already promoted in the panel of the year 2014-15, 2016-17 and the petitioner was deprived on account of the minor penalty of stoppage of increment for three months without cumulative effect which expired in September 2015 itself. The manner in which, the name of the writ petitioner was passed over in two panels is not in consonance with the Board proceeding itself. The petitioner is of an opinion that the implementation of punishment was improperly done by the authorities in the next year i.e., 2016, which is improper and thus, the order impugned is to be set aside and the petitioner is to be promoted with retrospective effect on par with his juniors.



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5.The learned counsel for the respondents objected the said contention by stating that the case of the writ petitioner was considered in accordance with rules in force. The list of suitable and eligible persons who all are working at Stores office and who are eligible for being promoted as Chief Stores Officer were called for based on the crucial date of 05.05.2014. The petitioner's name was included in the above approved panel for promotion to the post of Chief Stores Officer for the year 2014-15 which was published in proceedings dated 30.10.2015. In the said approved panel, the petitioner's name was deferred, since he was undergoing punishment on the date of consideration i.e., 16.10.2015. On receiving the intimation of imposing the punishment of the petitioner, his name was moved to the deferred list as he was undergoing punishment at that point of time.

6.It is not in dispute that the punishment of stoppage of increment for three months was ordered in Memo dated 01.06.2015. After receipt of explanation and finalization, the punishment was given effect from 01.04.2016 and the three



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months period came to an end on 30.06.2016. Thereafter, for preparing panel for promotion to the post of Chief Stores Officer fixing a crucial date on 05.05.2016, details of eligible employees were called for from eligible persons working as Stores Officer and are suitable to be posted as Chief Stores Officer.

7.In the above said suitability report, his name was at S.No.4 in the panel for promotion to the post of Chief Stores Officer vide proceedings dated 29.05.2017 and his name was again deferred since he was undergoing punishment during the crucial date of 05.05.2016 i.e, from 01.04.2016 to 30.06.2016.

8.The petitioner filed writ petition in W.P.No.13837 of 2017 and pursuant to the directions issued by this Court, representation submitted by the petitioner was examined by the 2nd respondent in detail and accordingly, the order was passed, rejecting the claim of the writ petitioner assigning the following reasons:

The petitioner has filed W.P.No.13837 of 2017 & W.M.P.No.15024 of 2017 and as per the orders of this Hon'ble Court the petitioner's representation dated 18.05.2017 was



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examined by the 2nd respondent in detail and the request to include his name in the panel for promotion to the post of Chief Stores Officer is not feasible of compliance and the same was also informed to the petitioner, vide Memo.No.043259/257/G.30/G.301/2017-1, dated 15.09.2017 for the reasons stated here under.

(i) "punishment of increment withheld for a period of three months without cumulative effect (excluding leave period) imposed by Financial Controller/General against the petitioner for the lapses of collecting the donation towards construction of CSI Immanuel Church at Thennor, also agreed by the petitioner which is against the Regulation 11(i) of TNEB Employees Conduct Regulations vide Memo.No.005261/62/ D.23/ D.231/2015-2, dt.01.06.2015.

(ii) As per (Per) B.P.(FB) No.38 (Sectt.Br), dated 11.10.2010 and Memo.No.(Per.) No.78706/ A18/A181/2012-1, dated 23.11.2012 whenever an office/employee is undergoing any punishment on the crucial date or on the date of consideration then irrespective of the time of occurrence of the irregularity, his name should be passed over for the panel. Based on the above guidelines adopted in the Board/TANGEDCO, the petitioner was undergoing



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punishment on the crucial date of 05.05.2016. The punishment has commenced from 01.04.2016 and probably completed on 30.06.2016 (his increment date as on 01.04.2016). Hence his name was not been included in the panel for promotion to the post of Chief Stores Officer.

In short that the petitioner was undergoing punishment on the crucial date of 05.05.2016 and his name cannot be included in the panel as per (Per.) B.P.(FB) No.38, dt. 11.10.2010 and Memo. No. 78706/A18/A181/2012-1, dt. 23.11.2012. After Completion of his punishment in the next crucial date of 05.05.2018 his name has been included in the panel for the year 2018-2019 and he was promoted as Chief Stores Officer. In the impugned order proper and cogent reasons have been assigned but the petitioner has yet vexatiously filed this Writ Petition on untenable Grounds. It is a settled position in law that the petitioner has to reply his claim based on his merits and not a based any other order passed in fortuitous circumstances. Hence, none of the averments/grounds raised in the Writ Petition are tenable.

9.The petitioner suffered an order of punishment during the relevant point of time and during the implementation of the punishment, the next panel was prepared and published. The details regarding the preparation of panel and its



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publication and promotion order reveals that the case of the writ petitioner was considered subsequently in the panel of the year 2018-19 and he was promoted to the post of Chief Stores Officer. The manner of implementation of the punishment earned by the petitioner and the consideration made by the respondents for inclusion of his name in the panel for promotion to the post of Chief Stores Officer reveals that the same was done in consonance with the procedures as contemplated and thus, there is no infirmity.

10. Accordingly, this writ petition stands dismissed. No Costs.
Consequently, connected miscellaneous petition is closed.

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Index : Yes
Internet : Yes
Speaking order : Yes
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S.M.SUBRAMANIAM, J.

SSR

To

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