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W.P.No.26577 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26577 of 2017

P.Gopal

...Petitioner

Vs.

1.The Secretary,
TANGEDCO/TNEB,
144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer / Personnel,
TANGEDCO/TNEB,
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 records of the 1st respondent in letter No.55206/a3/a31/2016-1, dated 25.10.2016 quash the same and to give effect to three promotions to the petitioners in accordance with in the B.P. (Ch) No.223 dated 21.11.2009 in clause 13-7(vi).

For Petitioner : Mr.C.S.Krishnamoorthy

For Respondents : Mr.P.Subramanian for TANGEDCO



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ORDER

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Promotion *per se* cannot be claimed as an absolute right. However, consideration for promotion is a right of an employee. The petitioner claims three promotions in service under the scheme which was prevailing in the Tamil Nadu Electricity Board. The order impugned states that there is no such scheme in Tamil Nadu Electricity Board allowing three promotions in service and therefore, the case of the writ petitioner was not considered.

2.The learned counsel for the petitioner made a submission that the respondents are selectively granting promotion. On the one hand, they are granting promotion to the employees working in administration branch of the Headquarters and promotions are denied to the other workmen working in other areas. The petitioner has already retired from service. Even at the time of filing the writ petition, he was in verge of retirement.

3.Whether an employee is eligible for three promotions in service as per the settlement entered into between the Management and workmen under Section 12(3) of the Industrial Disputes Act, 1947, requires an elaborate



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adjudication on facts and with reference to documents and evidences. *Prima facie* the order impugned reveals that there is no such scheme for allowing three promotions in service in Tamil Nadu Electricity Board. The discrimination ground raised by the petitioner requires factual adjudication with reference to documents and evidence and the petitioner admittedly being a workmen has to approach the Labour Court under the Industrial Disputes Act for adjudication of the disputed issues. The alternate remedy contemplated under the statute at no circumstances be dispensed with in a routine manner in the High Court. A factual adjudication in such circumstances are of paramount important and the findings of facts by the Labour Court would be of greater assistance to the High Court to exercise the power of judicial review under Article 226 in an efficient manner. The purpose and object of alternate / appeal remedy contemplated under the various statutes are to adjudicate the disputed issues and facts with reference to the documents and evidences in original. Oral evidences are also required in such circumstances and therefore, High Court cannot dispense with the alternate/appellate remedy contemplated under the statutes and at all circumstances, the aggrieved persons are bound to



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approach the competent forum for the purpose of adjudication of issues.

Merely based on the affidavit filed in the writ petition, High Court cannot settle the disputed facts. In the present case, the petitioner states that the settlement provides three promotions in service under the scheme. However, the respondents passed an order stating that no such scheme for grant of three promotions was available in the Tamil Nadu Electricity Board. When the very basic claim of the petitioner is disputed by the respondents, it requires an adjudication with reference to the terms and conditions of 12(3) settlement entered into between the parties under the Industrial Disputes Act. More so, the petitioner has already retired from service. Therefore, this Court is of an opinion that the relief as such sought for in the present writ petition cannot be granted. If at all the petitioner is aggrieved, he is at liberty to approach the Labour Court to establish his rights under the 12(3) Settlement and by following the procedures. In the event of any such approach, the Labour Court shall consider the period during which the writ petition was pending before this Court for the purpose of condoning the delay and adjudicate the issues on merits and in accordance with law.



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4. With this liberty, this writ petition stands disposed of. No Costs.

14.10.2022

Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To

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S.M.SUBRAMANIAM, J.

SSR

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