



W.P.(MD) No.1762 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.1762 of 2020

and

W.M.P.(MD) No.1484 of 2020

P.Subbulakshmi

... Petitioner

-VS-

1.The Chairman,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai 600 002.

2.The Chief Engineer Personnel

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai 600 002.

3.The Internal Audit Officer,

Tamil Nadu Generation & Distribution Corporation Ltd.,
Tamilnadu Electricity Board,
No.144, Anna Salai, Chennai 600 002.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in



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pursuant to the impugned order passed by the 2nd respondent in his letter NO.009985/61/G.301/2017-2 dated 21.04.2017 and quash the same and consequently direct the respondents to promote the petitioner to the post of Assistant Accounts Officer notionally on par with his juniors and to grant all attendant and monetary benefits.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mrs.M.Parameswari
Standing counsel for TNEB

ORDER

Challenging the impugned order of the 2nd respondent dated 21.04.2017 and for a consequential direction to the respondents to promote the petitioner to the post of Assistant Accounts Officer notionally on par with his juniors and to grant all attendant and monetary benefits, this Writ Petition has been filed.

2.The case of the petitioner is that initially he was appointed as Junior Assistant in the respondent Board on 25.10.1995 and subsequently promoted as Assistant and Accounts Supervisor on 08.01.2007. His next cadre of promotion is to the post of Assistant Accounts Officer and as such a panel was drawn in the year 2013-14 and in the said panel, upto S.No.188



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was given promotion and the petitioner was placed at Sl.No.198.

Subsequently in the year 2015-16, the Superintending Engineer forwarded the name of the petitioner to the post of Assistant Accounts Officer. However, due to the intervening election and the election code of conduct, the panel was not given effect to. In the interregnum, the petitioner attained the age of superannuation on 30.04.2016 and he was allowed to retire from service.

3. It is the further case of the petitioner that in an identical situation in W.A. No.510 of 2013, this Court directed the respondents to promote the similarly placed person notionally and since petitioner is also standing in the same footing, the petitioner sent a representation. Since the said representation was not considered the petitioner filed a writ petition before this Court in W.P(MD) No.22365/2016, where a direction has been given to the respondents to consider the petitioner for notional promotion in the light of the judgment in W.A(MD) No.510 of 2013 dated 09.04.2013. Thereafter, the 2nd respondent passed the impugned order stating that the judgment in W.A.(MD) No.510/2013 is not applicable to the petitioner



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herein and thereby rejected the request of the petitioner. Hence, challenging the same, the present writ petition has been filed by the petitioner.

4. The learned counsel for the petitioner submitted that the judgment made in W.A(MD) No.510/2013 is squarely applicable to the petitioner. It is submitted that the particulars were called for as early as on 06.02.2016 and the same were received by the respondents on 29.04.2016, even before the retirement of the petitioner and hence, the rejection made by the respondents is unsustainable in law and if the petitioner was promoted, he would have occupied the post of Assistant Accounts Officer and he would have been benefitted monetarily and hence, interference is warranted.

5. Per contra, by filing a counter affidavit, the learned standing counsel for the respondents submitted that the panel to the post of Assistant Accounts Officer was drawn fixing the crucial date as 25.03.2013. Accordingly, a panel was prepared containing 239 Accounts Supervisors. In the year 2015-16, report has been called for for 112 Accounts Supervisors



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including the petitioner herein vide letter dated 06.02.2016, out of which, for 83 persons particulars have been received and the same was placed before the committee for promotion on 15.06.2016. In the meanwhile, the petitioner has attained the age of superannuation and retired on 30.04.2016 and hence, the name of the petitioner was not considered.

6. It is further submitted that one Chellan, who retired on 31.05.2009, has filed W.P.No.28673 of 2010, wherein this Court directed the respondents to consider the petitioner therein notionally, as against the said decision, the department has filed a writ appeal, wherein, a direction was issued to give notional promotion to the petitioner therein. However, in the case on hand, the petitioner is standing in a different footing. In that case, the panel was prepared after the retirement of the petitioner therein fixing the crucial date as 25.03.2009, however, the petitioner therein retired on 30.05.2009 and though his name was included in the list, since the petitioner therein got retired, he was given notional promotion. However, in the present case, after the petitioner retired, when the particulars were called for and only for 83 persons, particulars and promotion were given and since



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the petitioner was in Sl.No.112, he was not given promotion and hence, it cannot be stated that the petitioner is entitled to be considered for promotion notionally. Accordingly, the respondents passed the detailed order and no interference is warranted to the same.

7. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

8. It is not in dispute that the petitioner retired on 30.04.2016 and the drawal of panel and the particulars that have been called for. As such the panel was prepared and the same was placed before the Committee on 15.06.2016. In the said panel 2015-16, the petitioner was placed at 198 and 83 Accounts Supervisors have been promoted as Assistant Accounts Supervisors and hence the petitioner was not considered for promotion and hence, the grievance of the petitioner that if her name was considered for promotion was given, she would have been benefitted monetarily cannot be considered. Furthermore, it is not her case that there were vacancies and her case was not considered. It is also not demonstrated that her juniors were



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given promotion overlooking the petitioner's candidature and seniority.

Hence, the respondents have rightly turned down the request of the petitioner and as such, no interference is warranted to the decision taken by the respondents. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes
Speaking Order

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M.DHANDAPANI, J.

RR

To

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