



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2535 of 2022

Shaji

... Petitioner

Vs.

1.Tamil Nadu Generation and Distribution Corporation,
Rep.by its Chief Engineer/Personnel,
8th Floor, NPKRR Maligai,
No.144, Anna Salai,
Chennai-600 002.

2.The Superintendent Engineer,
Tamil Nadu Generation and Distribution Corporation,
Nagercoil,
Kanyakumari District.

3.The Executive Engineer,
TANGEDCO-Distribution,
Kuzhithurai,
Kanyakumari District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent to give promotion to the petitioner as Revenue Supervisor based on the seniority list (Letter No.010422/80/G.25/G.252/2021-1) dated 19.02.2021 and also the petitioner's representation dated 22.12.2021.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent : Mr.S.Arivalagan

O R D E R

The relief sought for in the present writ petition is to direct the first respondent to give promotion to the petitioner as Revenue Supervisor, based on the seniority list dated 19.02.2021 and also consider the representation submitted by the petitioner on 22.12.2021.



2. The learned counsel for the petitioner vehemently contended that the promotional opportunity of the writ petitioner has been stopped wantonly at the instance of the officials by framing charges. The name of the petitioner was included in the seniority list for promotion to the post of Revenue Supervisor. When the petitioner was waiting for promotion, a charge memo was issued on 28.06.2021. The petitioner has made a request to the Authorities to furnish the documents enabling him to submit his explanation and without furnishing the documents, the Authorities have appointed the Enquiry Officer. Therefore, framing of the charge memo itself is with a motive to deny the promotion to the post of Revenue Supervisor. In this regard, the petitioner submitted a representation which is yet to be considered by the authorities. Thus, the petitioner has filed the present writ petition.

3. The learned counsel appearing on behalf of the respondents/TANGEDCO objected the said contentions by stating that the charge memo was issued based on the materials available on record and the petitioner is not co-operating for conducting of enquiry. Contrarily, he is attempting to prolong and protract the enquiry proceedings by unnecessarily seeking documents which he will get to peruse at the time of enquiry. Once a charge memo has been issued, the employee is not eligible for promotion till the disciplinary proceedings are concluded as per the Board Proceedings and the rules in-force. Thus, the writ petitioner is not entitled for any relief.

4.(i) Mere inclusion of name of an employee in the Seniority List would not confer any right for promotion.

(ii) Promotion can never be claimed as a matter of right and all promotions are to be granted strictly in accordance with Rules in-force.

(iii) pending of a charge memo is a bar for promotion as the Charge memo is considered as a demerit for promotion.

(iv) In the event of exemption from the charge memo, then the case of the employee is to be considered on merits and based on the seniority.

The above principles being settled, the Authorities Competent are bound to consider the case of the petitioner for promotion after disposal of the disciplinary proceedings pending against the petitioner.

5. Charge memo contains allegations. The petitioner is bound to defend his case in the manner known to law. By merely asking the Authorities to produce the documents, he cannot prolong and protract the disciplinary proceedings. The petitioner has to submit his



explanation and an Enquiry Officer, in the present case, has been appointed. Therefore, he has to attend the enquiry and peruse all the records available. The petitioner must be provided with an opportunity to peruse the documents during the process of enquiry. Contrarily, the petitioner cannot impose a condition on the authorities that all the documents must be furnished well in advance. Such procedures are not contemplated. This nature of conduct is apparent that the employee is willingly not co-operating for conclusion of departmental proceedings and further intending to protract the same. Thus, in such event, the authorities are at liberty to proceed ex-parte. Therefore, the opportunity contemplated under the Rules must be provided.

6. As per the Rules, an employee has to submit his explanation on receipt of charge memo and therefore, if any documents are listed out in the charge memo, those documents can be furnished to the delinquent employee for the purpose of taking a defence. If no documents mentioned in the charge memo, then all the records relied on by the Department must be allowed to peruse by the employee during the course of enquiry before the Enquiry Officer.

7. This being the principles, the petitioner is at liberty to avail the opportunity for perusal of the materials by participating in the enquiry proceedings and the Enquiry Officer appointed must permit the petitioner to peruse the records and take his defence for the purpose of establishing his case.

8. With these observations, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1. The Chief Engineer/Personnel,
Tamil Nadu Generation and Distribution Corporation,
8th Floor, NPKRR Maligai,
No.144, Anna Salai,
Chennai-600 002.



2.The Superintendent Engineer,
Tamil Nadu Generation and Distribution Corporation,
Nagercoil,
Kanyakumari District.

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3.The Executive Engineer,
TANGEDCO-Distribution,
Kuzhithurai,
Kaniyakumari District.

+1 CC to M/s.S.ARIVALAGAN, Advocate (SR-5152[F] dated 09/02/2022)

+1 CC to M/s.ANANTH C RAJESH, Advocate(SR-5267[F] dated
10/02/2022)

W.P.(MD) No.2535 of 2022

08.02.2022

MGJ(21.02.2022) 4P 6C