



W.P.(MD)No.21205 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2022

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21205 of 2014

and

M.P.(MD)No.1 of 2014

G.Nagarajan

... Petitioner

Vs.

1. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Limited,
Head Office,
800, Anna Salai,
Chennai – 600 002.
2. The Superintending Engineer,
Trichy Electricity Distribution Circle (Metro)
Tamil Nadu Generation and Distribution
Corporation Limited,
Trichy – 20.



W.P.(MD)No.21205 of 2014

3. The Executive Engineer, (Operation & Maintenance)
Trichy Electricity Distribution Circle (Metro)
Tamil Nadu Generation and Distribution
Corporation Limited,
East Division, Mannarpuram,
Trichy – 20.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relates to the proceedings of the second Respondent, herein, dated 10.11.2014 in Ku.Aa No.426/Ni.bi4/Vu1/Ko.O.Na./2014 to quash the same and consequently, direct the Respondents to include the name of the Petitioner in the panel of Assessor Grade II Employees fit for promotion to the post of Assessor and to promote the Petitioner to the post of Assessor by placing him above his immediate Juniors and grant all consequential and monetary benefits to the petitioner .

For Petitioner : Mr.D.Sivaraman

For Respondent : Mr.S.Arivalagan
Standing Counsel



W.P.(MD)No.21205 of 2014

ORDER

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This Writ Petition is filed for Writ of Certiorarified Mandamus to quash the impugned order, dated 10.11.2014 and consequently, direct the respondents to include the petitioner's name to fit for promotion to the post of Assessor Grade II.

2. The petitioner joined the respondent Corporation as Assessor Grade II on 17.06.2009 on temporary basis. Subsequently, the petitioner's service was regularized after completion of probation, vide proceedings, dated 18.09.2010. The petitioner was placed under suspension, vide proceedings, dated 29.01.2011 and the petitioner was implicated as accused No.2 in Crime No.4 of 2011 on the file of the Inspector of Police, Vigilance and Anti-corruption Wing, Tiruchirappalli. The FIR was lodged by one B.Prakash, a consumer, alleging that Mr.M.Dhanaraj, Revenue Supervisor of the respondent Corporation demanded illegal gratification to restore the service connection granted to the consumer. Originally, the said Prakash has obtained a domestic service connection, but was using the same for commercial purpose and

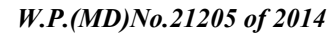


W.P.(MD)No.21205 of 2014

the same was reported to the higher official. Subsequently, the service connection was disconnected.

3. The consumer's allegation was that the Revenue Supervisor demanded bribe to restore the disconnected service connection. Since the petitioner was the person reported the misuse of service connection, the said consumer out of grudge has included the petitioner's name in the said complaint. Even though the petitioner was suspended, no disciplinary action was initiated. Therefore, the petitioner had filed a writ petition in W.P.(MD)No.1809 of 2011, challenging the order of suspension.

4. In the meanwhile, the Special Case No.76 of 2013 was filed and the petitioner approached this Court for speedy trial and filed CrI.O.P.No.14016 of 2013. After a full-fledged trial, the Special Court, vide order, dated 31.12.2013 acquitted the petitioner from all the charges. Therefore, this Court has set aside the suspension order and allowed the writ petition in W.P.(MD)No.1809 of 2011, vide order, dated



5. Thereafter, the first respondent, vide proceedings, dated 27.10.2014, directed all the Superintending Engineers and Executive Engineers to prepare a panel of Assessor Grade II fit for promotion to the post of Assessor on or before 27.10.2014. The first respondent has issued eligibility criteria, wherein the Assessor Grade II employees who have completed two years of service and have passed X standard (New pattern) or XI standard (Old pattern) are eligible for promotion. The second and third respondents have prepared a panel of candidates of Assessor Grade II employees fit for promotion. However, the petitioner's name is not there in the said list. The petitioner was orally informed that his name was not included in the panel due to pendency of the appeal. Appeal No.108 of 2014 which was filed by the Vigilance and Anti-Corruption Department.



W.P.(MD)No.21205 of 2014

WEB COPY

6. The contention of the petitioner is that since the petitioner was acquitted from the criminal charges by Trial Court, the petitioner is eligible to be promoted. Therefore, the petitioner has preferred a petition before the authorities. Since there was no response, the petitioner has filed a writ petition in W.P.(MD)No.17531 of 2014 and this Court by an order, dated 31.10.2014, directed the second respondent to consider the petitioner's representation, dated 14.10.2014 and pass appropriate orders. When the petitioner approached along with the order passed by this Court, the respondents, vide proceedings, dated 10.11.2014 informed the petitioner that the petitioner's request for promotion will be considered only after the disposal of the criminal case. The petitioner further submitted based on the criminal case the respondents have not initiated disciplinary action and no punishment has been imposed by the respondents. Moreover, the Special Court has acquitted the petitioner from all the charges and therefore, the impugned proceedings of the second respondent, dated 10.11.2014 is legally not sustainable. Aggrieved over the same, the petitioner has preferred this present writ



W.P.(MD)No.21205 of 2014

petition.

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7. The respondents have not filed any counter affidavit but relied on the impugned order and submitted that since criminal case is pending, the petitioner's name cannot be considered for any promotion. Moreover, the learned Counsel appearing for the respondents submitted that the charge memo, dated 30.01.2015 was issued, hence the disciplinary proceedings is pending as well as the criminal appeal is pending. Hence, the petitioner is not entitled to promotion and the respondents prayed to dismiss the writ petition.

8. Heard Mr.D.Sivaraman, learned Counsel appearing for the petitioner, Mr.S.Arivalagan, learned Standing Counsel appearing for the respondents and perused the records.

9. The charge against the petitioner is that the petitioner has visited the complainant/consumer, namely, Prakash and intimated to contact Revenue Supervisor, namely, Mr.M.Dhanaraj. Thereafter, the



W.P.(MD)No.21205 of 2014

said Prakash had met the said Mr.M.Dhanaraj, wherein the said Mr.M.Dhanaraj has demanded Rs.2000/- as bribe to restore the disconnected connection. The allegation against the petitioner is that he had demanded bribe. The contention of the petitioner is that even in Criminal Court the respondents have disposed and admitted that the petitioner has not visited the said complainant place, based on which the Criminal Court has acquitted the petitioner. Moreover, it is the specific plea of the petitioner that he was on duty on 21.01.2011 and he was allotted to record meter reading for 340 connections. When there was a submission before the Criminal Court that the petitioner had not visited the complainant place and the petitioner was on duty for meter reading on 21.01.2011, then the petitioner is entitled to relief.

10. Moreover, as rightly pointed out by the petitioner, the respondents have not issued any show cause notice prior to the Criminal Case and charge memo was issued on 30.01.2015 and the alleged delinquency was in the year 2011, hence admittedly, the charge memo is a belated charge memo.



W.P.(MD)No.21205 of 2014

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11. Further after issuance of charge memo there was no progress in the disciplinary proceedings. Hence the petitioner filed W.P. (MD)No. 26915 of 2019 to quash the charge memo and this Court passed an order on 14.03.2022 directing the respondents to complete the disciplinary proceedings within a period of four months. Even thereafter the respondents have not taken a single step to complete disciplinary proceedings. The petitioner in spite of acquitted from criminal case has waited for the promotion endlessly. In this case, the respondents have deliberately keeping the charge pending from 2015 onwards. The petitioner's juniors were granted three promotions and the petitioner is waiting for his promotion from Assessor Grade II endlessly for no fault of him.

12. For the reasons stated above, this Court is directing the respondents to include the petitioner's name in the appropriate place above his junior and grant all promotion including the monetary benefits. The said exercise shall be completed within a period of eight (8) weeks



W.P.(MD)No.21205 of 2014

from the date of receipt of a copy of this order.

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13. With the above said direction, this Writ Petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

07.11.2022

Index : Yes / No

Internet : Yes / No

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To

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W.P.(MD)No.21205 of 2014

S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.21205 of 2014

07.11.2022