



W.P.(MD).No.7598 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.7598 of 2014

and

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

and

W.M.P.(MD).No.12064 of 2020

K.Ganesan

... Petitioner

Vs.

1.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai – 600 002.

2.The Superintending Engineer,
Madurai Electricity Distribution Circle / METRO,
Tamil Nadu Generation and Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Madurai – 625 007.

... 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 in pursuant to the impugned order passed by the second respondent in Memo.No.SAE/MEDC/Metro/Mdu/U Ni A/Ni Pi 2/U 3/ Ko.Na.Ma/A No. 413/2014 dated 8/4 .03.2014 and quash the same and consequently direct the



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second respondent to fix the petitioner's seniority based on the seniority fixed by the first respondent in Memo.No.100718/583/G57/G572/2012-2 dated 06.06.2012 and the consequential letter No.043600/180/G57/G572/2013 dated 20.08.2013 and place the petitioner name in Serial No.27 instead of Serial No.81 in the seniority of Field Assistant 2013-2014 and promote the petitioner to the post of Commercial Assistant with all attendant and service benefits.

For Petitioner : Mr.M.Saravana Kumar

For Respondents : Mr.Arivalagan
Standing Counsel.

ORDER

This Writ Petition has been filed for Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent dated 8/4.03.2014 and quash the same and consequently direct the second respondent to fix the petitioner's seniority based on the seniority fixed by the first respondent in proceedings dated 06.06.2012 and the consequential letter dated 20.08.2013 and place the petitioner name in Serial No.27 instead of Serial No.81 in the seniority of Field Assistant 2013-2014 and promote the petitioner to the post of Commercial Assistant with all attendant and service benefits.



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2. The brief facts as stated in the affidavit are that the petitioner was appointed as Field Assistant on 03.04.2009 and on completion of two years, the petitioner was brought under regular time scale of pay with effect from 02.04.2011. Thereafter, the petitioner was transferred from Chennai to Madurai on 05.01.2010. The petitioner joined Madurai Narasingampatti Section on 06.01.2010. The petitioner has foregone his seniority that was allotted in Chennai and he was kept in the Junior most list maintained in the Madurai Region at Narasingampatti Section. Thereafter, the Madurai Electricity Distribution Circle was divided into two units and re-named as Madurai Electricity Distribution Circle and Metro Electricity Distribution Circle. The respondents have given an option to the existing employees either to work in the MDEC or they can shift to Metro. On such willingness, the petitioner has joined the Metro Section in Mahalipatti on 01.04.2011. The contention of the petitioner is that the first respondent issued State wide Seniority list for the Helper on 06.06.2012 and the petitioner's Serial Number is 1326. The petitioner has already foregone his seniority while he was transferred from Chennai to Madurai. Now, the respondents are stating that the petitioner has to forego his seniority once again if he is shifted from Narasingampatti to Mahalipatti that is MEDC to Madurai Metro. The contention of the petitioner



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is that the transfer from Chennai to Madurai is on his own wish. But, however, the transfer from MEDC to Metro is because of the policy decision of the respondents to divide the existing Circle into two regions. Therefore, in such circumstances, the petitioner need not to forego his seniority. This Court while hearing the Writ Petition granted an interim stay on 30.04.2014.

3. The respondents have filed counter along with the vacate stay petition, wherein, it has been stated that the petitioner was transferred to Madurai Electricity Distribution Circle vide proceedings dated 02.12.2009 wherein, it was subsequently directed that he will forgo his seniority. The petitioner has received his transfer order and accepted the conditions and was relieved on 05.01.2010. The seniority of the staffs working in Madurai Electricity Distribution Circle/Metro was integrated and maintained by the Superintending Engineer/Madurai Electricity Distribution Circle upto February 2011. As per the instructions of the Chief Engineer/Personnel, Chennai, separate seniority list has to be maintained by each circle by the option of the staff. As per the instructions of the Chief Engineer/Personnel, Chennai the petitioner opted to work under the control of the Madurai Electricity Distribution Circle/Metro from Madurai Electricity Distribution Circle. By this option of the petitioner, he



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was transferred to Madurai Electricity Distribution Circle/Metro and posted at Mahalipatti Section as Helper on 01.04.2011. The Superintending Engineer, Metro/Madurai has issued the tentative seniority list placing the petitioner in Serial No.27. The persons coming on transfer from other circle are kept in the last rank in the new circle. Since the petitioner was transferred to Madurai Metro Circle on his own request, he should forego his seniority. Therefore, he should take last rank in the circle. Accordingly, the petitioner was placed below one S.Imthiyas Ali, who was joined on 31.07.2010. The petitioner has joined as Helper in the said circle on 03.01.2011. Therefore as per the existing rules, the original Seniority No.81 was assigned to the petitioner. Therefore, there is no infirmity in the impugned order of seniority list. Hence the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.M.Saravana Kumar, learned counsel for the petitioner and Mr.Arivalagan, learned Standing Counsel appearing for the respondents and perused the records.

5. On perusing the records it is seen that since there was a confusion in the “foregoing seniority”, the appropriate authority namely Administrative



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Supervisor was directed to appear along with file before this Court in order to explain the seniority. The authority was present before this Court today and explained issue.

6. The learned counsel appearing for the petitioner submitted that he was transferred from Chennai to Madurai on his own willingness and he has foregone his seniority. However, when the Madurai Electricity Distribution Circle was divided into two units, the petitioner need not to forego his seniority because it is only on account of administrative reasons. However, the learned counsel appearing for the respondents submitted that the basic principle is that once the transfer is based on willingness of the employees, then the employee should forego his seniority. In the present case, even though it is for the administrative reasons, willingness is obtained from the respective employee before joining the Mahalipatti Section. If the willingness is submitted, then the employee should forego the seniority. This Court is not able to appreciate such stand. Even though the MEDC and the Metro was bifurcated long before, the seniority was maintained by MEDC only. Since the actual division of employees has taken place now only, then the petitioner need not forgo his seniority. It has to be construed as bifurcated due to administrative reasons and



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it is not due to petitioner's willingness. The date of joining in the Narasingampatti Section should be taken as date of joining in the Mahalipatti Section also. The petitioner is entitled to fix the seniority in the year 2010 and not in the year 2011.

7. For the reasons stated above, the respondents are directed to re-fix the seniority of the petitioner in the year 2010. In view of the above, this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.09.2022

Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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To

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