



W.P.(MD).No.16524 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16524 of 2015

and

M.P.(MD).Nos.1 and 2 of 2015

E.Gandhi

... Petitioner

Vs.

- 1.The Chief Engineer,
TANGEDCO,
(Formerly called as Tamil Nadu Electricity Board),
144, Annasalai,
Chennai.
- 2.The Superintending Engineer,
TANGEDCO,
(Formerly called as Tamil Nadu Electricity Board),
Ramanathapuram Electricity Distribution Circle,
Ramanathapuram.
- 3.The Assistant Executive Engineer,
Office of the Executive Engineer, (Supply) / TANGEDCO,
Ramanathapuram.
- 4.R.Mariadoss,
Line Inspector,
S.S.Raghunathapuram Sub Division,
Ramanathapuram.

... Respondents



W.P.(MD).No.16524 of 2015

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 pertaining to the impugned proceedings issued by the third respondent in No.A.No.1451/2014 dated 13.01.2014 and quash the same and consequently direct the respondents 1 to 3 to promote the petitioner to the post of Foreman Grade I on the basis of his seniority.

For Petitioner : Mr.P.Krishnasamy

For R-1 to R-3 : Mr.S.Arivalagan,
Standing Counsel.

For R-4 : No Appearance.

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus to quash the impugned order dated 13.01.2014 and promote the petitioner to the post of Foreman Grade-I on the basis of the seniority.

2. The brief facts as stated in the affidavit are that the petitioner was appointed as Helper on daily wages on 05.12.1998. Subsequently, his service was regularized and then he was promoted as Wireman on 20.05.2001. Thereafter, promoted as Line Inspector on 13.12.2007. The second respondent issued a circular for preparation of tentative seniority of Foreman Grade-I / Line Inspector on 04.06.2012 and the petitioner's name was in Serial No.22.



W.P.(MD).No.16524 of 2015

The said seniority list was prepared on the basis of date of joining that is on 05.12.1998. The fourth respondent was at Serial No.27 on the aforesaid list and his date of joining is on 04.02.1999. To the shock and surprise of the petitioner, the third respondent has revised the seniority list of Line Inspector / C.L for Double channel of promotion to the post of Foreman Grade-I vide respondent Board proceedings in B.P.No.256 dated 12.12.2005 as on 24.06.2013. Since in the said list, the petitioner's name was not found, but the fourth respondent's name was found in Serial No.6, who is junior to the petitioner, the petitioner submitted a representation dated 08.08.2015. The petitioner was on the verge of his retirement that is on 30.06.2016 at the time of filing of this Writ Petition. Even though the petitioner has served for 15 years, the petitioner's name was not considered to the post of Foreman Grade-I. Hence, the petitioner has challenged the impugned seniority list published by the third respondent in this Writ Petition.

3. The respondents have filed a counter stating that in respect of Regular Work Establishment (RWE) employees of Distribution Circle, there would be a double channel of promotion as per B.P.(ch)No.256 (Adm.Br.) dated 12.12.2005. The first channel is Helper, Commercial Assistant, Commercial Inspector then Foreman Grade-I. The other channel is Helper, Wireman, Line



W.P.(MD).No.16524 of 2015

Inspector and Foreman Grade-I. The Board would prepare a list for the promotion in respect of each channel and every seniority would be on the basis of date of joining in the post as Commercial Inspector / Line Inspector. Accordingly, from time to time, the respondents issued double channel of promotion up to the post of Commercial Inspector / Line Inspector as on 01.03.2012. The petitioner was in Seniority No.22 and the fourth respondent was in Seniority No.27 on the basis of date of joining of first appointment. The respondents further submitted that the petitioner has not filed any appeal to the Controlling Officer (Section Officer) regarding his relieving at the time of his promotion as Line Inspector due to personal inconvenience. Hence, belated joining in the post of Line Inspector from the post of feeder post of Wireman is purely responsibility of the petitioner and not responsible to the respondents. Thus, no such promotion was made to the juniors of the petitioners as alleged by the petitioner. The respondents further submitted that the petitioner's name was not at all placed in the suitability report as the date of joining of the petitioner as Line Inspector was on 15.12.2007. The respondents accept the petitioner's name was placed in the revised seniority list of Line Inspector and the petitioner Serial Number was in 9. But the fourth respondent Serial Number is 6. Subsequently, a clarification dated 05.11.2010 was issued and the date of joining of the petitioner was mentioned as 15.12.2007 as per the joining



W.P.(MD).No.16524 of 2015

date in the present post. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.P.Krishnasamy, learned counsel for the petitioner and Mr.S.Arivalagan, learned Standing Counsel for respondents 1 to 3 and perused the records.

5. The respondents accept the case of the petitioner that the petitioner is senior to the fourth respondent. The petitioner was promoted as Line Inspector on 15.12.2007. Since suitability report was not placed in time, the petitioner has lost his seniority. The respondents admit that the petitioner has not preferred any appeal to the Controlling Officer regarding his relieving at the time of his promotion as Line Inspector. However, the respondents submitted that the petitioner has not submitted such appeal because of his personal inconvenience. Hence, there was delay in joining the promoted post of Line Inspector from the feeder category of Wireman. Therefore, the petitioner prays to direct the respondents to condone such delay in joining the promoted post of Line Inspector. If there is delay in joining, then the respondents ought to have intimated to the petitioner and the petitioner ought to have rectified then and there. Since the petitioner has not filed any appeal, the petitioner should not



W.P.(MD).No.16524 of 2015

lose his seniority, since seniority and promotion are rights of an individuals.

Therefore, this Court is directing the respondents to consider the claim of the petitioner and the delay in joining the post of Line Inspector may be condoned and consequently, the petitioner's name shall be placed in appropriate seniority, especially before the fourth respondent and grant promotion prior to the fourth respondent. Since the petitioner had attained superannuation, the petitioner is not entitled to the backwages for the said period, however, the benefits shall be included in the pensionary benefits.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.11.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.16524 of 2015

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W.P.(MD).No.16524 of 2015

S.SRIMATHY, J.

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W.P.(MD).No.16524 of 2015

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