



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.13911 of 2018

and

W.M.P. (MD) .No.12630 of 2018

P.Radhakrishnan

... Petitioner

Vs.

1.The Chairman,

Tamil Nadu Generation and
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai - 600 002.

2.The Chief Engineer Personnel,

Tamil Nadu Generation and
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,

Trichy Electricity Distribution Circle (North),
Tamil Nadu Generation and
Distribution Corporation Limited,
Tamil Nadu Electricity Board,
Mannarpuram,
Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the second and third respondents to consider the petitioner's representation dated 08.12.2017 and to grant promotional service benefits in conformity with the award dated 10.07.2012 passed in I.D.No.31/2001, Labour Court, Tiruchirappalli to the petitioner.

For Petitioner	:	Mr.M.Saravana Kumar
For Respondents	:	Mr.S.Arivalagan, Standing Counsel.



ORDER

This Writ Petition has been filed for Mandamus directing the respondents to implement the award passed by the Labour Court in I.D.No.31 of 2001 dated 10.07.2012.

2. The brief facts of the case are that the petitioner was working as Accounts Supervisor under the control of the third respondent. Initially, he was appointed as Helper on 14.06.1993 and subsequently absorbed in the permanent vacancy on 01.09.1994 with a time scale of pay. Then promoted as Junior Assistant on 01.09.1995. On 11.04.1996, a charge memo was issued alleging that the petitioner has forged the signature of his brother and sister in the electricity connection "name transfer application" thereby violated the Board Standing Orders No. 19(iii). The petitioner submitted his explanation and thereafter, a punishment was imposed on the petitioner by withholding the increment for two years with cumulative effect on 04.11.1996. Aggrieved over, the petitioner has filed an appeal before the third respondent on 03.12.1996 and the same was rejected on 11.06.1997. The petitioner has not preferred any petition against the said order and the punishment order has attained finality. In the year 1998, the respondents called for suitability for promotion to the post of Assistant. The petitioner's promotion was withheld by the second respondent vide proceedings dated 22.09.1998, on the ground that currency of punishment is in existence.

3. The contention of the petitioner is that one Palaniyandi who was also facing currency of punishment during the year 1998 was granted promotion. Therefore, the petitioner preferred I.D before Labour Court to set aside the order passed by the second respondent in his proceedings dated 22.09.1998. The Labour Court in I.D.No.38/2001 had passed an order dated 10.07.2001 is under:

"In the result, the Industrial Dispute petition is allowed and the order of the first respondent dated 22.09.1998 in denying promotion to P.Radhakrishnan is set aside and the respondents are directed to include the name of P.Radhakrishnan in the panel for promotion along with co-worker T.Palaniyandi and promote the said P. Radhakrishnan to the post of Assistant with consequential seniority and benefit with costs".

4. The contention of the petitioner is that such order was communicated to the respondents and the petitioner submitted three representations dated 08.10.2012, 17.09.2013 and 08.12.2017, since the same was not considered. The petitioner has filed this Writ Petition with a above said prayer. The respondents have not filed any counter but submitted because of the currency of punishment, the petitioner is not entitled to promotion. It is during currency of



punishment if any promotion is granted, then the same claim will be made by other employees and the same is against the service jurisprudence.

5. Heard Mr.M.Saravana Kumar, learned counsel for the petitioner and Mr.S.Arivalagan, learned Standing Counsel for the respondents.

6. On perusing the records it is seen that the petitioner has not challenged the punishment order dated 04.11.1996 and the consequential appeal order dated 11.06.1997, before Labour Court or before the High Court and the order has attained finality. The punishment imposed is stoppage of increment for two years with cumulative effect. This punishment is considered as major punishment as per the Tamil Nadu Civil Servants (Discipline and Appeal) Rules as well as by the Board Proceedings. During the currency of punishment, the delinquent is not entitled to promotion. If that is so, the petitioner is not entitled to promotion from the date of punishment that is from 04.11.1996. The stoppage of increment is for two years and the petitioner is not entitled to promotion from 04.11.1996 to 04.11.1998. Since the punishment is with cumulative effect, the currency of punishment would be extended further and petitioner may be entitled to promotion thereafter.

7. Therefore, this Court is of the considered opinion that the petitioner is not entitled to promotion on par with his junior in the year 1998. The petitioner has filed this Writ Petition in the year 2018. The ID order was passed in the year 2001. After lapse of 17 years, this Writ Petition is filed. This Hon'ble Court in Division Bench headed by Justice V. Ramasubramanian and Justice N. Kirubakaran in W.A. (MD) No. 312 / 2011 vide order dated 09.12.2015 has held in paragraph 5,

"That the employees who were in service in 1997-1998 as well as in the year 2002 did not rise a little finger either at the time of when the original applications were filed in the year 1997-1998 or at the time when the original application were allowed by the Tribunal in the year 2002 and they are not entitled to revive dead and stale claims."

The Division Bench has held Mandamus cannot be granted for a dead or stale claims.

8. In this present case, the delay and latches are starring on the writ petitioner, therefore this Court is not inclined to grant any positive direction to the respondents.

9. It is submitted by the Learned Counsel for the petitioner that the petitioner was not granted any promotion



thereafter and he still has service and prayed to direct the respondents to consider the petitioner for promotion in future atleast. This Court is of the considered opinion that it would be suffice if the respondents are directed to consider the petitioner's claim for promotion in future, if he is otherwise qualified.

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10. With this direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA&MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Tamil Nadu Generation and Distribution Corporation Limited,
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+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-10283[F]
dated 07/03/2022)

W.P. (MD) .No.13911 of 2018
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KG (CO)

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