



W.P.(MD)No.4326 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.4326 of 2017

and

W.M.P.(MD)Nos.3473 & 3474 of 2017

K.Boominathan

... Petitioner

Vs.

1. The Chairman/Managing Director,
Tamil Nadu Generation & Distribution Corporation,
NPKRR Maaligai, 10th Floor,
No.144, Anna Salai,
Chennai – 600 002.
 2. The Chief Engineer (Personnel),
Tamil Nadu Generation & Distribution Corporation,
NPKRR Maaligai, 8th Floor,
No.144, Anna Salai,
Chennai – 600 002.
 3. The Superintending Engineer,
Sivangangai Distribution Circle,
Tamil Nadu Electricity Board (TANGEDCO Ltd.),
Sivangangai,
Sivangangai District.
- ... Respondents



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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 panel List prepared by the first Respondent, dated 20.02.2017 in his Memo No.059544/324/G3/G31/2016-5 and quash the same on the ground that the same are arbitrary, illegal and without any legal basis and without jurisdiction and consequently, directing the first respondent to include the Petitioner for the panel of Senior Draughtsman prepared by the first Respondent for the promotion of Head Draughtsman.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.S.Arivalagan
Standing Counsel

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus to quash the impugned panel list, dated 20.02.2017 and consequently, direct the first respondent to include the petitioner's name for the panel of Senior Draughtsman prepared by the first respondent for the promotion of Head Draughtsman.



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2. The brief facts as stated in the affidavit is that the petitioner was appointed as Assistant Draughtsman in the year 1991, then promoted as Draughtsman on 27.03.1996, then promoted as Senior Draughtsman from 04.09.2013 onwards. On 07.02.2015, the first respondent prepared the panel for the post of Head Draughtsman. The eligibility for the promotion of Head Draughtsman is not prescribed in T.N.E.B Service Rules. Whereas the Service Rules provides that the Chief Head Draughtsman can be recruited by promotion from the candidates having experience for not less than six years as Head Draughtsman or Senior Draughtsman in the Board or must have rendered a service of not less than twenty years in all as Draughtsman in TANGEDCO. Even though the Service Rules states the eligibility criteria for the Chief Draughtsman, but does not provide the eligibility criteria for the post of Head Draughtsman, but the same Service Rules states that the Assistant Draughtsman can be promoted as Draughtsman, the Draughtsman can be promoted as Senior Draughtsman, the Senior Draughtsman can be promoted as Head Draughtsman and the Head Draughtsman can be promoted as Chief Head Draughtsman. The eligibility of 20 years



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experience in Draughtsman is enough for promoting to the post of Chief Head Draughtsman. The petitioner has 23 years 9 months experience as in various level of Draughtsman and hence the petitioner is qualified under the condition of “20 years as Draughtsman in various level”, and hence the petitioner is seeking to promote as Head Draughtsman. The petitioner contended that the respondents without instruction, circular or Rules, cannot reject the petitioner on the ground that he had to complete three years in Senior Draughtsman. Hence, the petitioner sent a representation dated 19.02.2015 and 06.06.2015 requiring to include the petitioner to the post of Head Draughtsman having the eligible qualification. The first respondent issued the panel list, wherein, the petitioner's name was not there. Hence, the petitioner has preferred this writ petition.

3. The respondents have filed a counter affidavit stating that there is no qualification prescribed for promotion to the post of Head Draughtsman. However, it is decided by the Board to grant promotion to the said post to person having six years experience. Since the petitioner



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is not having six years experience, the petitioner's name was not included. Hence, the respondents prayed to dismiss the writ petition.

4. Heard Mr.M.Ramu, learned Counsel appearing for the petitioner and Mr.S.Arivalagan, learned Standing Counsel appearing for the respondents and perused the records.

5. It is admitted by both the petitioner and the respondents that there is no rule prescribing the qualification for the “Head Draughtsman”. Therefore, the Board has decided to adopt the qualification prescribed for the promotion to the post of Senior Draughtsman.

6. In the counter, the respondents have stated that as per Regulation 94 of the TNEB Service Regulations in Annexure III provides that in every Draughtsman promotion from the lower category to higher category are as follows:



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(i) Assistant Draughtsman to Draughtsman:

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"No employee shall be eligible for promotion to a higher post unless he is an approved probationer in the category from which promotion to the higher post is admissible."

(ii) Draughtsman to Senior Draughtsman:

"Practical experience as Draughtsman in Drawing and Design for a period of not less than three years preferably in the Government Department and or Tamil Nadu Electricity Board".

(iii) Senior Draughtsman to Head Draughtsman:

"Practical experience as Draughtsman in Drawing and Design for a period of not less than three years preferably in the Government Department and or Tamil Nadu Electricity Board".

(iv) Head Draughtsman to Chief Head Draughtsman:

“(i) Must have had experience for not less than six years as Head Draughtsman or Senior Draughtsman in the board.”

(or)



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(ii) Must have rendered a service of not less than twenty years in all as draughtsman in the Government Electricity Department and or the Board.

It is seen under (iv) for Head Draughtsman to Chief Head Draughtsman it should be either “**six years experience or twenty years in all as Draughtsman**”. It shall be either six years or twenty years in all levels of Draughtsman. When there is no prescription of Rules, the respondents ought to adopt, which is more favouring the employee. Since twenty years in all is favouring the employee that ought to be the criteria. In the present case, the petitioner is having 23 years 9 months experience and the petitioner would be eligible for promotion. Promotion may not be a fundamental right, but the employer ought to prescribe criteria that is more beneficial to the employee. Hence, the prescription of six years is not beneficial, but twenty years to all levels put together is more beneficial.

7. Therefore, this Court is of the considered opinion that when the prescription is not there, when the Board is adopting the rule that is



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prescribed for Senior Draughtsman which is not favouring the employee then the same cannot be adopted. Hence, the matter is remitted back to the second respondent to consider the case of the petitioner by twenty years to all levels put together as prescribed for the post of Chief Head Draughtsman under Regulation 94 and grant notional promotion. However, it is made clear that the petitioner is not entitled to any monetary benefits and shall be included in the pensionary benefits. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2022

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

jbr

Order made in
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