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W.P.No.19209 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.19209 of 2012

P.G.Maniarasuu (P.G.Manickam)

.. Petitioner

VS

1.Tamil Nadu Electricity Board,
by its Chairman,
X Floor, K.R.R.Maligai,
No.144, Anna Salai,
Chennai-600 002.

2.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board,
VIII Floor, K.R.R.Maligai,
No.144, Anna Salai,
Chennai-600 002.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records pertaining to the reply Memo No.019339/Adm.Br/C6.2/88-2 dated 02.04.88 issued by the 2nd respondent and the consequential letter issued by the second respondent Board vide Lr. No.120580/600/G56/G562/2007-2 and Lr. No.120580/600/G56/G562/2007-72



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dated 05.12.2007 and 09.09.2010, quash the same and consequently direct the respondents to revise the Store Keeper Grade II seniority list 1979 and to grant promotion and other accruing monetary benefits to the petitioner that he is entitled to from the date of his appointment to the said post on 09.07.1979.

For the Petitioner : Ms.V.Pushpa

For the Respondents : Mr.K.Rajkumar

ORDER

Today the matter is listed under the caption "*for being mentioned*".

2. As there was no representation on behalf of the petitioner as well as the respondents on the last date (28.11.2023) when the matter was called out, the writ petition was dismissed. Today, the matter was heard on merits. In light of the above, the order dated 28.11.2023 dismissing the writ petition stands recalled.



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3. Heard Ms.V.Pushpa, learned counsel for the petitioner and Mr.K.Rajkumar, learned counsel for the respondents.

4. This writ petition is filed challenging the impugned order dated 2.4.1988 and the consequential letters dated 5.12.2007 and 9.9.2010 issued by the second respondent and to direct the respondents to revise the Store Keeper Grade-II seniority list 1979 and also to grant promotion and other accruing monetary benefits to the petitioner, which he is entitled to from the date of his appointment to the said post on 9.7.1979.

5.1. The case of the petitioner is that the petitioner was selected and appointed to the post of Store Keeper Grade-II temporarily with effect from 9.7.1979 and was regularized in the said post with effect from 26.11.1980. After his regularization, when the respondents have fixed the *inter se* seniority in the post of Store Keeper Grade-II by wrongly considering him as a candidate belonging to Open General Category and by following the communal rotation, his seniority was wrongly fixed at Serial No.313. The petitioner, therefore, made a representation on 30.10.1981 whereunder he brought to the notice of



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the respondents that he belongs to Backward Community and taking into account the appropriate communal rotation, his seniority should be refixed.

5.2. As a matter of fact, the respondents have considered the grievance of the petitioner. By the order dated 26.11.1980, his seniority was refixed by keeping the petitioner at Serial No.136. However, without any show cause notice whatsoever, unilaterally, the respondents have wrongly cancelled the said seniority position and reverted his seniority to the original position by an order dated 2.4.1988. Immediately, the petitioner has made a detailed representation that the said position of seniority cannot be belatedly cancelled in the year 1988. However, no order whatsoever was communicated to the petitioner. But the fact remains that, by an order dated 28.5.1991 by following the original position of the seniority i.e. placing the petitioner at Serial No.313, the petitioner was granted promotion. Even in the said panel, the petitioner's juniors were kept above the petitioner.

5.3. Under the aforesaid circumstances, the petitioner kept on



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making representations to the respondents. Only after the superannuation of the petitioner, by an application under the RTI Act, the petitioner was provided with the first page of his service book, whereby the petitioner came to know that his communal status was entered as Backward Community, by mentioning that the petitioner belongs to "Vannia Kula Kshatriya". However, he was not treated in the BC category. Then, by bringing the said fact to the notice of the respondents, the petitioner made a fresh representation and even after sending a series of representations, there was no positive response from the respondents. Hence, the petitioner has filed the present writ petition.

6. Learned counsel appearing on behalf of the petitioner submitted that this is not a case which would result in upsetting any other promotion or the rights *inter se* of the parties. This is a genuine case where the category of the petitioner was omitted to be considered and, by correcting the mistake, no prejudice whatsoever would be caused to any of the persons, except that it will result in revision of the date of promotion. Even though the petitioner has approached the Court after his retirement, the said benefits can be notionally granted



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by revising the pensionary benefits alone.

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7. Learned counsel for the petitioner would submit that the contention of the respondents that the petitioner was making repeated representations is incorrect because immediately after the wrongful fixation of the seniority when the petitioner made representation, the same was corrected as early as in the year 1981. It is the respondents who have belatedly cancelled the same after seven years in the year 1988. When the respondents have acted belatedly, which resulted mischief, the petitioner cannot be blamed of not making his claim immediately.

8. Per contra, learned counsel appearing for the respondent – Electricity Board would submit that firstly the matter relates to claim of seniority. It cannot be said that the petitioner was never aware of his seniority position. When the seniority was originally fixed at Serial No.313, he was very much aware and made representation. When it was corrected also, the said order was served on him. Similarly, upon receipt of the objection from other employees and upon reconsideration of the matter when the correction was cancelled, the



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said order was also served on him. As a matter of fact, his further promotion to the post of Store Keeper Grade-I was made only considering his seniority position as Serial No.313 and not as Serial No.136. Whenever the promotion panel was published, some of his juniors were kept above him and the petitioner never questioned the same. He accepted the promotion granted as per his original seniority and continued in service and retired. As per Regulation 97(d) of the Tamil Nadu Electricity Board Service Regulation, any grievance relating to the seniority has to be redressed within a period of three years and after keeping quite till the date of retirement, the petitioner cannot now agitate the matter. The petitioner superannuated from service in the year 2003 and belatedly this writ petition is filed in the year 2012. Merely making repeated representations will not, in any manner, revive the petitioner's cause of action. The petitioner was a fence-sitter all along. It is only a chance litigation, which is made after the retirement.

9. I have considered the rival submissions and also perused the materials available on record.



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10. At the out set, there is some force in the submission made by learned counsel for the petitioner that originally the prayer of the petitioner was acceded to and his seniority was corrected and the correction was only belatedly cancelled after a period of seven years i.e. 1988. Even accepting the contention of the petitioner that the said cancellation was not properly brought to his notice, it can be seen that the order of promotion of the petitioner by forming a panel was made in the year 1991, whereunder the petitioner's name finds place at Serial No.18. Admittedly, the candidates 1 to 17 were juniors to the petitioner as per the claim of the petitioner. Therefore, at that point of time itself, the petitioner's grievance got crystallized. As a matter of fact, the petitioner has made a representation on 4.7.1998. In the said representation itself, he has acknowledged that his juniors superseded him 10 years before. Therefore, even when the grievance of the petitioner was not redressed at that point of time, the petitioner did not approach this Court immediately and, as a matter of fact, by making repeated representations alone, he allowed the matter to become stale and only after his retirement in the year 2003 and much thereafter the writ petition is filed in the year 2012. Therefore, only on the ground of delay and laches, this Court is unable to countenance



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the claim of the petitioner and redress his grievance at this point of time.

11. In the result, the writ petition is dismissed. There will be no order as to costs.

30.11.2023

Index : Yes
Neutral Citation : Yes
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To

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Chennai-600 002.
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