



W.P.No.20927 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.20927 of 2019

M.Periyasamy

... Petitioner

Versus

1. The Chief Engineer
Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO)
Administrative Branch,
144, Anna Salai, Chennai -2.
2. The Additional Chief Engineer,
Vellore Electricity Distribution Circle,
Vellore-6.
3. The Superintending Engineer,
Perambalur Electricity Distribution Circle,
Perambalur.
4. M.Karuppaiya
5. M.Karnan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 2nd respondent to include the petitioner's name in the promotion panel list in Memo No.00375/193/ACE/Admn.2/A1/2019, dated 13.06.2019 based on the representation dated 20.06.2019.



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For petitioner : Mr.M.E.Rani Selvam
For RR1 to 3 : Mr.K.Rajkumar,
Standing Counsel

ORDER

This Writ Petition is filed seeking for the issuance of a Writ of Mandamus, directing the 2nd respondent to include the petitioner's name in the promotion panel list in Memo No.00375/193/ACE/Admn.2/A1/2019, dated 13.06.2019 based on the representation dated 20.06.2019.

2. The case of the petitioner in brief:

(a) The petitioner was initially selected as Helper (Trainee) on 17.06.2009 in Perambalur Electricity Distribution Circle (PEDC) through ITI Helper direct recruitment in the year 2009. After completion of two years of technical training, he was posted as Helper on 17.06.2011 and subsequently, he was promoted as Commercial Assistant (class-III) Grade Officer on 13.02.2014 in the said Circle. While he was discharging his duty, the 3rd respondent issued transfer order dated 05.03.2019 stating that he was transferred from PEDC to Vellore Electricity Distribution Circle (VEDC) on administrative reasons. Even though he has not challenged the said order due to his financial conditions of his family, he had accepted the



same and joined duty in Vellore Distribution Circle (VEDC) on 13.03.2019.

He came to know that there was a preparation of panel to promote Commercial Assistant to Commercial Inspector, subject to the conditions that they are not involved in any disciplinary proceedings and not undergoing any punishment and also they are suitable for promotion suitability report.

(b) Since, the petitioner was eligible for promotion, he has given a representation on 01.05.2019 to the 2nd respondent to include his name in the promotion panel list. In these circumstances, the Assistant Executive Engineer, Arcot sent the suitability report to the Executive Engineer, Arcot stating that the petitioner is eligible and fit for promotion. Based on his representation, the Additional Chief Engineer, (VEDC) has sent a letter dated 13.06.2019 to the Superintending Engineer and the Executive Engineer calling for the records of the petitioner relating to any disciplinary proceedings pending as on date. On the same day, the Additional Chief Engineer (VEDC) has prepared and published a list of individuals approved and not approved for promotions in proceedings dated 13.06.2019 in Memo No.00375/ 193/ ACE/ Admn.2/ A.1/ 201, and the petitioner's name was not included. He was not involved any disciplinary proceedings and no charge



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memo was issued so far in the crucial date for promotion and he is a senior most person when compared to the individuals selected for promotion as commercial Inspector.

(c) In these circumstances, on 18.06.2019, the Executive Engineer, Perambalur has sent a letter to the Superintending Engineer, Perambalur stating that there are no documents relating to the disciplinary proceedings against the petitioner in PEDC and the 3rd respondent, with an intention, not forwarded the letter to the Additional Chief Engineer, Vellore to include his name in the promotion panel and delayed with some motive, and he has not got any promotion in the upcoming panel. Hence, he made a representation on 20.06.2019 to the Additional Chief Engineer, VEDC for consideration of his name in the Promotion Panel list, but the same was not considered, and hence he filed the present Writ Petition seeking to include his name in the promotion panel list.

3. The learned counsel for the petitioner submitted that based on the recommendation of the Vigilance Cell of the Tamil Nadu Generation & Distribution Corporation, dated 05.03.2019, the petitioner was transferred from PEDC to VEDC on administrative grounds and the petitioner had



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joined duty as Commercial Assistant in VEDC on 13.03.2019 and the next avenue of promotion for the petitioner is Commercial Inspector and on 27.05.2019, the 2nd respondent called for suitability report for the post of Commercial Inspector from VEDC and hence, the petitioner made a representation dated 01.06.2019 seeking to include his name in the suitability report.

4. The learned Standing Counsel appearing for the respondents 1 to 3 submitted that as per Clause 4 of (Per.) BP (FB) No.38, any nature of enquiry/charge was framed on the recommendation of the Vigilance Commission/the Vigilance Cell/TNEB. This will be equivalent to charges framed under Regulation 8(b) of TNEB Employees D & A Regulations and charges framed to impose major penalties for the employees covered under both the sets of Standing Orders. Hence it should be held against the officer/employee.

5. As per Clause 2 of the Circular Memo No.095340/G7/G72/2012-1 (Admn.Br.) dt 08.01.2013, if the charges are framed under Regulation 8(b) of TNEB Employees D&A and any of the punishment awarded after the



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crucial date but before actual promotion, shall also be held against the officer/employee. The petitioner attracts Clause 4 of the (Per.) BP (FB) No.38, dated 11.10.2020 and he is not entitled for promotion. On 20.06.2019, the petitioner was served with a Charge Memo by the Chairman-cum-Managing Director, TANGEDCO, for serious misconducts, when he was working as a Commercial Assistant in PEDC, the disciplinary proceedings were initiated against the petitioner on the complaint made directly to the Vigilance Cell of TNEB. Hence, the 2nd and 3rd respondents were not aware of the disciplinary proceedings, until the charge memo was issued on 20.06.2019 issued to the petitioner. On 19.06.2019, the 2nd respondent issued the promotion orders for the post of Commercial Inspectors to the other eligible employees, where the petitioner's name was not considered.

6. According to the respondents, charge memo was framed against M.Periyasamy (petitioner) which is as follows:

“xiv Thiru M.Periyasamy, Commercial Assistant, O/o.Assistant Engineer/O&M/South/Perambalur has failed to prepare the correct estimate to Thiru.D.Stalin Anthoniraj David, Kalpatty, for temporary connection



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as per Board's instructions. Thereby, he has failed to discharge his duties properly.”

7. On considering the submissions made by both the parties, this Court is of the view that this is not a big charge to stop the promotion of the petitioner. It would be a great injustice done to a person by not considering the said promotion. There is no serious allegation against the petitioner as to causing any loss to anyone or any misappropriation of funds, but only charge is that, he did not prepare proper estimate for temporary connection. Hence, this Court directs the 2nd respondent to consider the petitioner's representation within a period of four weeks from the date of receipt of a copy of this order and appropriate orders be passed, based on his representation for granting promotion.

8. Accordingly, this Writ Petition is disposed of. No order as to costs.

29.03.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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To

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