



W.P.(MD) No.7829 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.7829 of 2018
and WMP(MD) Nos.7412 to 7414 of 2023

R.Sankararaju

... Petitioner

-VS-

1.The Chief Engineer,
Personnel, TANGEDCO, Chennai.

2.The Superintending Engineer
TANGEDCO
Theni Distribution Circle, Theni.

3.The Executive Engineer,
(Distribution)
Theni.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the 2nd respondent in No. 1352/MePo/Theni/NIA/NiPi2/NiVu1/Ko./2018 dated 06.03.2018 quash the same insofar as omitting the petitioner without placing him at Sl.No.7 of the seniority list and placing the junior and juniormost in Sl.Nos.7 to 9 of the



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seniority list and consequently direct the respondents herein to place the petitioner in Sl.No.7 of the seniority list prepared by the respondents as per Board Proceedings dated 18.04.1986 for inclusion in the panel for promotion to the post of Foreman Special Grade.

For Petitioner : Mr.K.Appadurai

For Respondents : Mrs.M.Parameswari

ORDER

Challenging the impugned proceedings of the 2nd respondent dated 06.03.2018 insofar as omitting the petitioner without placing him at Sl.No.7 of the seniority list and placing the junior and junior-most in Sl.Nos. 7 to 9 of the seniority list and consequently direct the respondents herein to place the petitioner in Sl.No.7 of the seniority list prepared by the respondents as per Board Proceedings dated 18.04.1986 for inclusion in the panel for promotion to the post of Foreman Special Grade, this writ petition has been filed.



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2. The case of the petitioner is that he initially joined as field assistant in Vadamadurai Section in Dindigul on 06.01.1988. His services were regularised and he was subsequently promoted as commercial assistant on 01.08.1994. It is his case that their services, transfer, seniority and promotion are governed by the board proceedings issued by the 1st respondent. After ten years of service, he was transferred to Dindigul and from Dindigul to Theni with his seniority on 14.07.2004 and his seniority will carry to the transferred system. As per the guideline dated 18.04.1986, the seniority will be fixed with reference to their date of entry into their present category. It is his case that after transfer to the 2nd respondent circle, his seniority was not assigned. Therefore, he sent representations to the respondents 2 and 3 for assigning seniority. While so, he was promoted as commercial inspector. The 2nd respondent vide memo dated 19.03.2015 considering his request and as per the guidelines, placed the petitioner behind one M.Raveendran, commercial assistant and above K.Andavar and the same has been implemented vide memo dated 20.05.2015. When the seniority of the petitioner stood thus, without any notice and without giving any opportunity, in the year 2017, a seniority list was published, whereby



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the petitioner was placed at Sl.No.24 and Raveendran and Andavar are placed in Sl.Nos.6 and 7 respectively. It is further averred in the affidavit that the 2nd respondent has fixed the seniority violating the board proceedings, which deprived the petitioner's right. Therefore, challenging the said seniority, the petitioner approached this Court by filing a writ petition in WP(MD) No.22328 of 2017, wherein, an interim order has been passed stating that any promotion made is subject to the further orders and the persons promoted shall not be entitled to claim any equity. Thereafter, the 2nd respondent issued a fresh seniority list consisting 9 foreman I grade by including the junior and junior-most of the petitioner in S.Nos.7 to 9, thereby omitting the petitioner's name and a fresh cause of action was arisen for challenge. The 2nd respondent issued the seniority list without adhering to the order passed in the writ petition. Hence, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that admittedly in the impugned order dated 06.03.2018, the Superintending Engineer, Theni District has forwarded the name of juniors of the petitioner



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to promotion to the post of special grade foreman, however, the petitioner's name was not found place and hence, he prays for appropriate direction.

4. The learned standing counsel for the respondents would submit that admittedly the petitioner was appointed in Dindigul District and at his request, he was transferred to Theni Distribution Circle only in the year 2004, whereas one K.Andavar was initially appointed in Karur and at his request, he was transferred to Theni in the year 1992 prior to 10 years of entry and transfer. Further the said K.Andavar, P.Andavar and Mani's seniority was fixed at S.Nos.21,22,23, whereas the petitioner's seniority is fixed above the seniority at 20 vide order dated 20.10.2016. Objecting the same, one Radhakrishnan made objection before the respondents and pursuant to which, the respondents conducted enquiry and issued the revised seniority list, wherein, the petitioner's seniority is fixed at S.No.24 and in the seniority list, the said K.Andavar and P.Andavar and Mani seniority are fixed at 7, 8 and 9 above the petitioner and the very same seniority list was challenged before this Court in WP(MD) No.22328/2017 and this Court dismissed the writ petition on 30.11.2022 and it become



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final. Based on the seniority list 03.11.2017, names of three persons were forwarded for promotion to the post of the special grade foreman, which cannot be interfered with and hence, she prays for dismissal.

5. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the materials available on record.

6. Admittedly, the 1st respondent issued direction to the 2nd respondent to forward the eligible names fit for promotion to the post of Special Grade foreman in the feeder category of fireman Grade I as per the seniority along with the suitability report, in which, the petitioner's name was not sent thereby, the present writ petition has been filed challenging the impugned order dated 06.03.2018. It is to be noted here that there are two categories of employees, viz., provincial and regular work establishment. For provincial category, state seniority is to be followed and the employees in administration, accounts, stores and assessment wing were come under regular work establishment and their seniority will be circle seniority. As



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such, the petitioner is regular work establishment employee and come under circle seniority.

7. The grievance of the petitioner is that as per seniority list dated 20.10.2016, K.Andavar P.Andavar and Mani are juniors to the petitioner. However, subsequently the seniority list was modified and revised seniority list was published on 03.11.2017, in which the petitioner was placed at S.No.24, whereas K.Andavar, P.Andavar and Mani were placed at Sl.Nos. 7,8 and 9. It is pertinent to be pointed out that when the petitioner has challenged the impugned proceedings dated 03.11.2017 in W.P.(MD) No. 22328/2017, by which, he was placed under Sl.No.24, this Court has dismissed the said writ petition. In the said writ petition, it is categorically held as follows:

“4. After hearing the rival submissions, this Court is of the considered opinion that the petitioner has misconstrued the transfer order and is claiming he should be kept as Commercial Assistant by taking his date of joining in the Commercial Assistant post in Dindigul circle. The petitioner ought to read the paragraph 2 and 4 of the transfer order conjointly. In Paragraph 2, it is clearly stated that since the



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petitioner is being transferred on his own request, the petitioner is not entitled to any travelling allowances. Also, in paragraph 4 it is clearly stated that the petitioner's seniority for Commercial Assistant post would be fixed by taking the date of joining in transferred division by following the guidelines. On conjointly reading of paragraph 2 and 4 along with the guidelines, it would be clear that the petitioner would be kept as junior most person in the transferred division and hence the petitioner has been rightly kept below one Radhakrishnan, who was junior most in Theni circle. The petitioner's claim is totally against the service jurisprudence. If an employee transferred from one Unit to another Unit or from one circle to another circle, then the employee should be placed as junior most in the transferred circle in the cadre of post which they are holding. Therefore, the claim of the petitioner is totally against such rule and hence the writ petition is liable to be dismissed. 5. In view of the above, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

In the said writ petition, it is categorically held that the petitioner has been rightly placed in the transferred circle, ie., below Radhakrishnan, who was juniormost in the Theni Circle. To conclude, the respondents have rightly placed the petitioner below the junior most in the Theni Circle upon his



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transfer. It is also seen that based on the seniority list dated 03.11.2017, the petitioner's name was forwarded to the first respondent and hence it cannot be interfered with. Accordingly, the writ petition fails and the same is dismissed. No costs. consequently connected Miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes/No

RR

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M.DHANDAPANI, J.

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