



Cont P(MD)No.1684 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.02.2023

Pronounced on : 10.03.2023

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

Cont P(MD)No.1684 of 2019

and

Cont P(MD)No.1315 of 2019

and

Sub Application (MD)No.276 of 2019

Cont P(MD)No.1684 of 2019

The Tamil Nadu Power Engineers Organization,
Represented by its General Secretary,
(Reg.No.2998/CNI)
No.27, Mosque Street,
Chepauk,
Chennai.

... Petitioner/24th respondent

-VS-

Mr.R.Krishnamoorthy,
Chief Engineer/Personnel,
TANGEDCO/TNEB,
No.144, Annasalai,
Chennai-600 002.

... Contemnor/8th respondent



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PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the contemnor/Respondent under Section 11 of Contempt of Court Act, 1971 for their wanton and willful disobedience of the order dated 02.07.2019 passed by this Court in W.A(MD)No.1227 of 2018.

For Petitioner	:	Mr.P.Mahendran
For Respondent	:	Mr.V.Karthick
		Standing Counsel
		for Mrs.M.Parameswari
		Standing Counsel

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R.Sundareshwaran

... Petitioner/15th respondent

-VS-

Mr.A.Ashok Kumar,
The Chief Engineer,
TANGEDCO/TNEB,
No.144, Anna Salai,
Chennai.

... Contemnor/8th respondent

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, 1971, to punish the contemnor/Respondent under the Contempt of Court Act for misrepresentation and non-compliance of order made in W.A(MD)No.1227/2018 dated 02.07.2019 confirming the order, dated 25.07.2017 passed in W.P(MD)No. 20714 of 2015 for non preparing common seniority list of Junior Engineer Electrical Grade-II as per the order but again issuing inter-se seniority lists, dated 08.11.2018 and 22-11-2018.

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For Petitioner : Mr.H.Arumugam
for Mr.P.P.Alwin Balan
For Respondent : Mr.R.Baskaran
Additional Advocate General
Asst. by Mrs.M.Parameswari
Standing Counsel

For petitioner
in Sub.Aplc(MD)No.276/2019 : Mr.C.K.Chandrasekar

ORDER

DR.G.JAYACHANDRAN,J.
AND
K.K.RAMAKRISHNAN,J.

Seven Junior Engineers Grade-II in TANGEDCO/TNEB challenging the seniority list prepared for the promotional post of Junior Engineer Grade-I in the ratio of 3:1 among the diploma holder and non-diploma holder came before this Court by filing the writ petition in W.P(MD)No.20714 of 2015 seeking writ of certiorarified mandamus, to call for the records pertaining to promotional list and quash the same and consequently, to promote them as Junior Engineer Grade-I from the date of promotion given to one Manickam.

2. The grievance of the writ petitioners is that the petitioners joined as Helpers in the Tamil Nadu Electricity Board way back in the year 1986-1987 and



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later promoted to the post of Commercial Assistant, thereafter, periodically promoted to one stage to other. Finally, got promoted as Junior Engineer Grade-II between October 2009 to July 2010. Their further promotion is to the post of Junior Engineer Grade-I. For the said post, feeder category is Junior Engineer Grade-II consisting of diploma holders and non-diploma holders at the ratio of 3:1. The grievance of the petitioners was that no inter-se seniority prepared by the department but arbitrarily some were promoted ignoring the seniority of others. Therefore, sought for publication of the seniority list in the ratio of 3:1 from among the Junior Engineer Grade-II consisting of diploma holders and non-diploma holders for further promotion to the post of Junior Engineer Grade-I. The list issued by the department does not contain the date of joining hence, a direction be issued to the Chief Engineer (Personnel) TANGEDCO/TNEB to prepare the common seniority list among the Junior Engineers Grade-II for the purpose of promoting the eligible candidates on the basis of the seniority assigned to them.

3. The department filed counter and explained the procedure adopted for filling up the post of Junior Engineers Grade-I from among the feeder category of



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Junior Engineer Grade-II. After considering the rival submissions and records as well as the observations made by the Division Bench of this Court in a Writ Appeal in W.A.Nos.1571 of 2012 etc., batch, dated 22.06.2015, the learned Single Judge has held that no prejudice would be caused to the department, if they are directed to prepare a common seniority list among the Junior Engineers Grade-II, specifically mentioning the dates of their respective joining dates in the said post. Therefore, the impugned seniority list prepared earlier was set aside.

4. The learned Single Judge further directed the first respondent/The Chief Engineer/Personnel (TANGEDCO/TNEB) to prepare a common seniority list among the Junior Engineers Grade-II, within a period of eight weeks from the date of receipt of a copy of the order and after framing such common seniority list, the same shall be displayed inviting the objection from the affected persons, if any, and thereafter, within three weeks they can proceed further, by giving promotion to the post of Junior Engineer Grade-1. Till then, status quo as on date shall be maintained.

5. Pursuant to this order, list was released on 8.11.2018. This list was communicated to the stakeholders and objections/representations were invited.



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The petitioners gave their representations stating that the list released is contrary to the rules and the juniors, who have joined service later, been given priority to the senior and the fixation of 3:1 ratio among the diploma holders and non diploma holders not been properly followed.

6. The representations were considered, inter-se seniority list was, thereafter, published on 22.11.2018. Contending that instead of preparing the common seniority list as directed by the learned Single Judge, the department has again prepared an inter-se seniority in disobedience of the order, contempt petition was filed, meanwhile, the second respondent in the writ petition by name Vetrivelu preferred an intra court appeal in W.A(MD)No.1227/2018 challenging the order passed by the learned Single Judge directing to prepare the common seniority list. When the writ appeal came up for consideration, the learned Additional Advocate General submitted that already tentative list released by the department calling for objections from persons, aggrieved, if any.

7. The Division Bench of this Court vide order, dated 02.07.2019 dismissed the writ appeal observing that there is no error in the order passed by the learned



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WEB COPY Single Judge directing the first respondent to prepare common seniority list among the Junior Engineers Grade-II recording the fact that the department has already prepared fresh tentative list and released for stakeholders to make representation. The Division Bench held that when such common seniority list prepared tentatively and objections invited, if at all any of the stakeholders are aggrieved, they can ventilate their grievance.

8. While dismissing the writ appeal, the Division Bench has given liberty to the affected persons to make their objections before the authority concerned within a period of three weeks and if any such objection is received regarding the tentative list, the same shall be considered and appropriate orders to be passed within four weeks.

9. Contempt Petition No.1684 of 2019 filed by the Tamil Nadu Power Engineers Organisation, the 24th respondent in the writ petition, alleging that the order of the Division Bench dated 02.07.2019 not been complied with. The tentative list prepared and published is not a common seniority list, but only an inter-se seniority list. The common seniority which is supposed to be fixed with 3:1 ratio among the diploma holders Junior Engineer/Electrical Engineer Grade-II



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and non diploma holders/Junior Engineer/Electrical Engineer Grade-II without furnishing the substantive date of appointment list were prepared and thereby, contempt been committed.

10. One Sundareshwaran, the 15th respondent in the writ petition has filed contempt petition in Cont P(MD)No.1315/2019 alleging that the list released by the department is not a common seniority list based on the date of appointment to the post of Junior Engineer Grade-II. Earlier, when the selection process was challenged, this Court directed to keep 7 post vacant and the promotion shall be subject to the result of the writ petition and the learned Single Judge while disposing of the writ petition directed the department to maintain status quo till the completion of process of preparing the common seniority list. While so, alleging that without reserving 7 post, without following the date of substantive appointment for fixing the seniority and without maintaining 3:1 ratio scrupulously, name of inter-se seniority list been issued instead of preparing common seniority list and therefore, the respondents have committed willful disobedience.



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11. Pending these two contempt petitions, one Mr.Madhavan a third party has filed an application to intervene in support of the contempt petitioner in Cont P(MD)No.1315 of 2019 and to make a submission through counsel.

12. Heard the counsels representing the rival parties and also the counsel for the TANGEDCO.

13. Alleging that the list released by the department in the name of inter-se seniority is not prepared in accordance with the direction of the Court and does not based on the date of entry into the post. Contrarily, the Senior Counsel appearing for the contemnor submitted that pursuant to the orders passed by the learned Single Judge, draft promotional list was furnished to all the stakeholders and objections were invited. About 100 objections were received and they were considered and orders passed accordingly.

14. The list prepared and released is in strict adherence to the direction of the Court by keeping 3:1 among the diploma holders and non diploma holders. The date of joining the post also been furnished subsequently. If at all there was a



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human error in fixation of seniority, the aggrieved persons were given an opportunity to make their representations and accordingly, the department, on receipt of the objections, pass an order based on the genuineness of the request.

15. Contrarily, the counsel appearing for the contempt petitioners quoting few incidents submitted that how the real seniority is over looked in preparing the seniority list and further submitted that in spite of a direction to prepare common seniority list, the department still maintaining inter-se seniority list and not common seniority list. He would further submitted that in case, if any non diploma holders found not eligible in the list when its turn comes in that slot, the department has not fixed the next non-diploma holders but as kept it vacant and allow the slot to be vacant and thereby, the ratio of 3:1 not been followed. A model list which ought to have been, as per the contempt petitioners, also furnished.

16. This Court after giving anxious consideration comparing the promotional list prepared by the department and the model list prepared by the contempt petitioners observe that there is a fundamental difficulties in



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understanding between the department and the petitioners. Admittedly, the promotional post of Junior Engineer Grade-1 has to be filled from the feeder category namely, Junior Engineer Grade-II. The feeder category of Junior Engineer Grade-II is filled from two sources. One is the diploma holders appointed directly and the second is the non-diploma holders raising from the rank of helper etc., The service rules provides the eligible criteria for respective feeder category. Once they reach the post of Junior Engineer Grade-II, for the further promotion to the post of Junior Engineer Grade-1 necessarily, seniority list is to be prepared. Such seniority list should be in the ratio of 3:1 as per the service rules which is admitted by all the stakeholders. While so, the list prepared by the department consisting of diploma holders and non-diploma holders in the ratio of 3:1 is substantial compliance of the order passed by this Court, it may be named as inter-se seniority inadvertently, but it is the common seniority list for the higher post of Junior Engineer Grade-1. If any of the Junior Engineer found his name in the list is over looked, then it is for him to make an individual representation and get redressal.



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17. When the department has released the list consisting of both the diploma holders and non-diploma holders in the ratio of 3:1 and the date of appointment is mentioned, the contempt petitioners cannot have any grievance much less grievance of willful disobedience by the authorities. The merger of ranking among the two categories in the same post has been done by the department and they have released the final list after releasing the tentative list and invited objections, if any, from the stakeholders. While so, there cannot be any action under the contempt of Courts Act on an illusion that the department has not prepared a common seniority list. If at all any individual is affected or aggrieved it is for that individual to take up his cause to the higher authorities and to sort out following the procedure. The contempt petition is not sustainable, accordingly, both the contempt petitions are dismissed. Since contempt petitions are dismissed, the impleading petition is also stands dismissed. No costs.

Index : Yes / No
Internet : Yes / No
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[G.J.,J.] [K.K.R.K.,J.]
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To

1. Mr.R.Krishnamoorthy,
Chief Engineer/Personnel,
TANGEDCO/TNEB,
No.144, Annasalai,
Chennai-600 002.

2. Mr.A.Ashok Kumar,
The Chief Engineer,
TANGEDCO/TNEB,
No.144, Anna Salai,
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