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WP.No.20351 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.20351 of 2010

and

MP.Nos.1 of 2010 & 1 of 2012

and

WMP.Nos.26980 & 26982 of 2022

1. P.Rajasekar
2. K.Palanisamy
3. K.Deivegan
4. T.Narayanan
5. P.Kolanji

... Petitioners

Vs.

1. The Chairman
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai-2.
2. The Secretary,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai-2.
3. The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai-2.
4. The Superintending Engineer,
Tamil Nadu Electricity Board,
Villupuram Electricity Distribution Circle,
Villupuram.



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... Respondents

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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Declaration, declaring that the Boards Proceedings in MS No.733 dated 16.6.1975 issued by the 2nd respondent as not applicable to the subsequently formed Administration cadre relating to the petitioners and direct the respondents to prepare and release the seniority list for the Administration cadre based on selection list and thereby direct the respondents to fix the seniority of the petitioners from the date of the selection as per the initial level selection made by the Tamilnadu Electricity Board.

For Petitioner : Mr.N.Suresh

For Respondents : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co

ORDER

The instant writ petition has been filed seeking the relief of writ of declaration, declaring that the Boards Proceedings in MS No.733 dated 16.6.1975 issued by the 2nd respondent as not applicable to the subsequently formed Administration cadre and also prayed to prepare and release the seniority list for the Administration cadre based on selection list and direct the respondents to fix the seniority of the petitioners according to their merits.



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2 (a). It is the contention of the petitioners that they were originally recruited by the Tamil Nadu Electricity Board by direct recruitment in 1994-1995, and that the petitioners' names were sponsored by the respective District Employment Exchanges for the post of Junior Assistant (Administration) in the Tamil Nadu Electricity Board. The learned counsel for the petitioners would further contend that the post of Junior Assistants (Administration), and Junior Assistants (Accounts) were created in the year 1987, and the Tamil Nadu Electricity Board had issued formation of the two posts by its B.P.MS.(FB) No.62 dated 23.07.1987. The learned counsel would further contend that as per the Tamil Nadu Electricity Board Service Regulations 97(a), the seniority of a person in a class of service, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined by the rank obtained by him in the list of approved candidates drawn up by the Board or other appointing authority, as the case may be.

2(b). It was also contended by the learned counsel for the petitioners that the seniority shall be State vide seniority, and that the seniority of the petitioners has to be determined according to their rank. Whereas, by virtue of the Board Proceedings Ms.No.733 dated 16.06.1975, the seniority has been fixed in respect of Junior Assistants/Typists/Steno-Typists recruited by the



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Board by reckoning the date of commencement of probation as a Junior Assistant/Typist/Steno-Typist as the basis for inclusion of their names in the common seniority list for the purposes of promotion as Assistant. It is also the contention of the learned counsel for the petitioners that such Board proceedings is contrary to the Tamil Nadu Electricity Board Regulations. Therefore, the said Board proceedings has to be declared as null and void.

3. Per contra, Mr.Anand Gopalan, the learned counsel for the respondents would vehemently contend that, the instant writ petition is hit by the delay and laches as the petitioners have challenged the proceedings only in the year 2010, where their seniority was fixed with effect from 1995. It was also contended by the learned counsel for the respondents that even in the year 2003, the petitioners were informed about their seniority. However, they admit the said seniority without raising any hue and cry. Therefore, the respondents contended that, they cannot at a later point of time object the seniority. It was also contended by the learned counsel for the respondents that the settled seniority cannot be reviewed after long period of time. Furthermore, it is the contention of the learned counsel for the respondents that the Board proceedings will prevail over the Tamil Nadu Electricity Board Regulations. Hence, prayed to dismiss the writ petition.



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4. I have given my anxious consideration to either side submissions.

5. The first and foremost objection raised by the petitioners is that, the Board Proceedings will have no effect in the place of the Tamil Nadu Electricity Regulations. In this regard, the learned counsel would rely upon Regulation 97 of the Tamil Nadu Electricity Board Service Regulations. Wherein, Regulation 97 deals about the seniority, and according to said Regulation, the seniority of a person in a class of service, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined by the rank obtained by him in the list of approved candidates drawn up by the Board or other appointing authority, as the case may be. Therefore, it is the contention that when the Regulation itself is a clear about the stipulation in respect of the seniority, any Board proceedings in contravention to such Regulation becomes illegal.

6. At this juncture, the learned counsel for the respondents invited the attention of this Court in respect of Clause (2) of the Regulation 2 of the Tamil Nadu Electricity Board Service Regulations. According to the Regulation 2, any amendments as may be effected by the Board from time to time shall apply to the monthly paid (on time-scales of pay) employee of the



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Electricity Department of the Government of Tamil Nadu, who have opted for service under the Board and to the employees recruited on and after 01.07.1957. Therefore, it is the contention of the learned counsel that the Board proceeding is nothing, but an amendment to the Regulation. Therefore, the same will have a force of Statute.

7. The contention of the learned counsel for the respondents is bound to be accepted as the Board proceedings is nothing but similar to an amendment to the Electricity Board Service Regulations. Apart from the above ground, as rightly contended by the learned counsel for the respondents, the petitioners have approached this Court after a period of 15 years from the date of knowing about the seniority position. Therefore, a settled seniority cannot be interfered with, that too where the other affected persons are not a party to the writ proceedings.

8. The learned counsel for the petitioner has also relied upon the judgment of the Hon'ble Supreme Court in ***General Manager Vs. Sri R.S.Sharma and others*** reported in ***CDJ 1986 SC 038*** and would contend that the Board proceedings cannot be equated with that of Section 18(1) settlement, so as to bind on the petitioners. However, this Court is of the view that, as rightly contended by the learned counsel for the respondents, the



Board proceedings is like an amendment to the Regulation and has been brought in, taking into consideration of the views of the Trade Union.

9. It was also the contention of the learned counsel for the respondents that under Regulation 97 (d) of the Electricity Board Service Regulations, any revision for seniority should be filed within a period of three years. For ready reference, Regulation 97(d) is extracted hereunder:-

“97. SENIORITY

(a)

(b)

(c)

(d) Application for the revision of seniority of a person in a service, class, category or grade shall be submitted to the appointing authority within a period of three years from the date of appointment to such service, class, category or grade or within a period of three years from the date of order fixing the seniority, as the case may be. Any application received after the said period of three years shall be summarily rejected. This shall not, however, be applicable to cases of rectifying orders, resulting from mistake of facts.”

10. In the present case, the petitioners were notified about their seniority in the year 1995. But, they approached this Court admittedly beyond



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the period of limitation. Therefore, this Court is of the firm view that the order passed by the respondent rejecting the claim of the petitioner for reviewing the seniority is well merited and does not require any interference by this Court. Hence, this writ petition is devoid of merits and the same is liable to be dismissed.

11. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

16.08.2024

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Index : Yes /No

Speaking order : Yes/No

Neutral Citation : Yes/No

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C.KUMARAPPAN, J.

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