



W.P.No.23253 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.23253 of 2011

and

M.P.No.1 of 2011

R.Balraj ... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Electricity Board,
144, Anna Salai,
Chennai-600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
144, Anna Salai, Chennai-600 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Memo No.028925/105/G.11/ 2003-5 dated 07.07.2010, quash the same and consequently direct the respondents to include the petitioner's name in the appropriate place in the panel for Assistant Engineers (electric) for the promotion to the post of Assistant Executive Engineers (Electrical) as per the Memo No.003714/8/G1/G11/2002-24 dated 15.06.2002.

For Petitioner : Mr.P.Srinivas



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For Respondents : Mr.Nikkilesh Yadhav
for Mr.K.Rajkumar
Standing Counsel

ORDER

The Memo No.028925/105/G.11/ 2003-5 dated 07.07.2010,
issued by the 1st respondent is under challenge.

2. The petitioner Shri.R.Balraj, S/o.Rajagopal submits that he joined service in the respondents as Switch Board Operator, on 25.07.1979. After completion of his B.E., degree in Electrical and Electronics, he was appointed as Assistant Engineer /Electrical on 29.06.1988. As per the regulation No.98 of the Tamil Nadu Electricity Service Regulations, he was fully qualified to be promoted as Assistant Executive Engineer (Electrical). A panel of Assistant Engineers / Junior Engineers (Electrical) in Memo No.003714/8/G1/G11/2002-24 dated 15.06.2002 to the post of Assistant Executive Engineers (Electrical) was drawn and out of 201 Assistant Engineers / Junior Engineers (Electrical), his name was not found in the list.

3. The petitioner further submits that he was serving as an Assistant Engineer by an order dated 24.02.2001. For the alleged minor



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lapse in the year 1994, his next increment was postponed for a period of six months from 1.10.2001 to 27.4.2002 (including medical leave applied by the petitioner) without cumulative effect. It is the further case of the petitioner that at the time of issuance of panel for promotion to the post of Assistant Executive Engineer, he was not undergoing any punishment and no charge was pending on the crucial date namely 05.08.2001 to be inflicted upon him for non inclusion of his name in the panel of Assistant Engineer to the post of Assistant Executive Engineer. The impugned order was passed without following regulations 98 and 106(c).

4. Meanwhile, the petitioner had filed a W.P.No.6698 of 2003 with along with Mr.P.Balaji (W.P.No.6717 of 2003) challenging the order of the 1st respondent in Memo No.087958/442/G11/G113/2002-1 dated 12.09.2002. By way of a common order dated 25.08.2009, the orders passed by the respondents were set aside and the matter was remitted back to the Appellate Authority for consideration afresh. The relevant portion of the order is culled out and mentioned hereunder:

"In the light of the above both the writ petitions are ordered, setting aside the orders of the appellate authority and remitting the matter back to the appellate



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authority for a fresh consideration, on the limited question as to how the persons whose names are mentioned by the petitioners came in for more favourable treatment, in the absence of any material to show that they deserved such treatment. The appellate authority shall examine the same taking into account the fact that the petitioners have now been promoted and what is to be examined would now really be confined only to a question of adjustment or seniority and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order."

5. Heard Mr.P.Srinivas, learned counsel appearing for the petitioner and Mr.R.Nikkhilesh Yadhav, learned counsel appearing on behalf of Mr.K.Rajkumar, learned Standing Counsel for TANGEDCO, for the respondents.

6. The learned counsel for the petitioner Mr.P.Srinivas would argue that this Court in its Common Order dated 25.08.2009, has specifically found that the orders of penalty were passed in February 2001 and for the increment had become due in February 2001 itself and currency of



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punishment of stoppage of increment for six months have been over by August 2001. Even if the currency of penalty is taken to have commenced in October 2001, it was over by April 2002 and the panel was released on 15.06.2002. Aggrieved by the release of panel as his name was excluded in the promotion panel for the year 2001 to the post of Assistant Executive Engineer, he has filed this writ petition.

7. Mr.R.Nikkilesh Yadhav, learned counsel appearing for the respondents would contend that the promotion panel for the year 2001 to the post of Assistant Executive Engineer / Electrical during the year 2002, petitioner's name was not included, since he was imposed a punishment of stoppage of next annual increment for a period of six months without cumulative effect, by the Order of the Chief Engineer/ Distribution/Erode Region in Memo dated 24.02.2001 and the punishment was in force till 23.08.2001. He would further contend that the Departmental Promotion Committee did not consider the name of the petitioner in view of the currency of punishment and the order of punishment taken effect immediately as per the Letter No.28790/S/2000-1,P & AR(S) Department, dated 05.07.2001 which was also communicated to him.



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8. The petitioner has suffered an order of stoppage of increment for six months dated 24.02.2001. The order reads that stoppage of his next annual increment for the period of six months without cumulative effect. When does this said order takes effect is the crucial question. The order of punishment of postponement of the petitioner's next increment for a period of six months without cumulative effect which was awarded to the petitioner was given effect to from the date on which the said order was communicated to the delinquent officer as per the order issued by the Government in Letter No.28790/S/2000-1, P & AR(S) Department, dated 05.07.2001. Therefore, on the crucial date, on 05.08.2011, the currency of punishment was imposed.

9. At the relevant point of time, he was working under the Executive Engineer/Operations and Maintenance, Kangeyam and the final orders of the Chief Engineer / Distribution/Erode Region, Erode was served on the petitioner on the very next day. Therefore, the order takes effect on 25.02.2001 and the six months period ends on 25.08.2001. His name cannot be included in the promotion panel for the year 2001 for the reason that a person who suffered an order at the hands of Chief Engineer by way of Disciplinary Proceedings his name cannot be



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included in the panel.

10. As per the above said letter, the order of punishment takes effect on 25.02.2001, and the crucial date is 5th of August. Therefore, as on 05.08.2001, he was under currency of punishment. Therefore, the action of the Chief Engineer in not including the petitioner's name in the promotion panel cannot be found fault with.

11. Based on the aforesaid discussions and observations, the writ petition stands dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Neutral Citation Case : Yes / No
Speaking Order / Non-Speaking Order
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To

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Tamil Nadu Electricity Board,
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- 2.The Chief Engineer (Personnel),
Tamil Nadu Electricity Board,
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R.KALAIMATHI, J.,

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