



W.P.No.25622 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.25622 of 2010
M.P.Nos.1 & 2 of 2010 and 1 of 2011

G.Subramaniam

... Petitioner

VS.

1. The Tamil Nadu Electricity Board,
Rep. by its Chairman,
No.144, Anna Salai,
Chennai – 2.

2. The Chief Engineer (Personal),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai – 2.

3. V. Sathish Kannan

4. R.Padmini

5. S.Kalidoss

6. S.Tamil Selvan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to consider and pass orders to include the name of the petitioner in the Memo No.041138/596/AB/G 18/G181/2009-1 dt.16.5.2009 at the appropriate place above the Assistant Engineer who entered the service as Technical Assistant/ Helper after 28.6.1996 by including the petitioner name in Memo



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No.035733/97/G.13/G.152/2002-1 dt.6.5.02 as claimed in his representations/ objection dt.4.12.2001, 12.4.2004, 8.6.2009 and 8.9.2010.

For Petitioner : Mr.S.Elamurugan

For Respondents : Mr.K.Rajkumar (for R1 & R2)

Standing Counsel for TNEB

Mr.L.Chandrakumar (for R3, R5 & R6)

ORDER

The petitioner has filed the instant writ petition to issue a writ of mandamus directing the respondents 1 and 2 to consider and pass orders to include the name of the petitioner in the Memo No.041138/596/AB/G 18/G181/2009-1 dated 16.05.2009 at the appropriate place above the Assistant Engineer who entered the service as Technical Assistant/ Helper after 28.06.1996 by including the petitioner name in Memo No.035733/97/G.13/G.152/2002-1 dated 06.05.2002 as claimed in his representations/ objection dated 04.12.2001, 12.04.2004, 08.06.2009 and 08.09.2010.

2. The learned counsel for the petitioner would submit that the petitioner entered into the services of the Tamil Nadu Electricity Board as Technical Assistant on 28.06.1996. Thereafter, on getting the prior permission from the Board, has completed his B.E. degree successfully in



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the year 2000, whereas, even prior to completion of his B.E. Degree during 1998, the Board invited the application for appointment to the post of Technical Assistant/Helper. At that time, some of the Technical Assistant who initially suppressed their qualification of B.E., degree at the time of joining has applied for the post.

3. Learned counsel for the petitioner further contend that the respondent Board having taken into consideration of the B.E., degree of the other diploma holders who had suppressed their qualification, initially has considered them for the promotion and published the list of seniority. Therefore, he contended that when many of the diploma holders, who initially suppressed the degree of B.E., were considered, the petitioner being the person who studied B.E. on obtaining proper permission of the Board, ought to have been considered for the promotion, by including his name in the Technical Assistant / Helper list dated 28.06.1996.

4. *Per contra*, the learned counsel for the respondent Board would vehemently contend that the qualification for the promotion to the post of Assistant Engineer is B.E. Degree and that the petitioner has completed his



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B.E. Degree only during 2000. Therefore, on the date of consideration for the promotion viz., in the year 1998, the petitioner did not possess the requisite qualification and hence, he was rightly not considered for promotion. Therefore, his contention that he has to be considered for promotion is without any basis.

5. It is also the contention of the learned counsel for the respondent that under Rule 98(2)(b) of the Tamil Nadu Electricity Board Services Regulations Rules, any person who wishes to appeal against his non-inclusion in the approved list, should do so within a period of two months from the date of communication of the approved list. If no appeal is received within the said period, the approved list communicated shall be deemed to be final.

6. Therefore, it is the contention of the learned counsel for the Electricity Board that on both counts i.e., non possession of requisite qualification, and for not filing any appeal, within the stipulated time, the writ petition is liable to be dismissed.



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7. I have given my anxious consideration to the either side submissions.

8. It is the well settled principles of law that the promotion cannot be sought as a fundamental right. However, candidates can claim the right to be considered for promotion as a fundamental right. In the present case, the panel for promotion was prepared during 1998. On the effective date, admittedly, the petitioner did not possess the requisite qualification, i.e. B.E. Degree. Therefore, the respondent Board has rightly not considered the petitioner for promotion. Apart from that, as per Rule 98(2)(b) of the Tamil Nadu Electricity Board Service Regulations Rules, the petitioner did not prefer appeal within the prescribed time qua two months and has chosen to file the writ petition after a period of eight years. Hence, this Court is of the view that, on the effective date, he was not eligible for promotion. Further, the long delay set in latches as any interference in the settled seniority is contrary to law. Therefore, in all respects, this petition lacks merit and hence, the petitioner is not entitled to any relief.

9. Accordingly, this Writ Petition stands dismissed. No Costs.



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Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

1. The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai – 2.

2. The Chief Engineer (Personal),
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai – 2.



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C.KUMARAPPAN, J.

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