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W.P.No.2485 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	5/3/2024
Delivered on	15/3/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.2485 of 2015

S. Kailasamurthy ... Petitioner

Vs

1. The Tamil Nadu Generation and
Distribution Corporation Ltd
rep. By its Chairman
No.144 Anna Salai
Chennai.

2. The Chief Engineer (Personnel)
The Tamil Nadu Generation and
Distribution Company Corporation Ltd
No.144 Anna Salai
Chennai 2.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
for the issuance of a writ of certiorarified mandamus to call for the entire



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records connected with the impugned order passed by the second respondent vide letter No.099890/10109/G30/G301/2013-1; dated 28/1/2014 quash the same and direct the second respondent to promote the petitioner as Assistants Accounts Officer w.e.f.2012 vide Letter No.010360/G30/G301/2012-2 dated 15/3/2012 for the crucial dated 25/3/2011 with all consequential benefits.

For petitioner ... Mr.S.N.Ravichandran

For respondents ... Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition is filed seeking to issue a certiorarified mandamus to quash the order passed by the second respondent dated 28/1/2014 in letter No.099890/10109/G30/G301/2013-1 and to promote the petitioner as Assistant Accounts Officer with effect from 2012 vide Letter No.010360/G30/G301/2012-2 dated 15/3/2012 for the crucial dated 25/3/2011 with all consequential benefits.

2. The facts in brief are as follows:-



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The petitioner was provided with an employment as Helper Trainee on 7/6/1993 at first respondent Tamil Nadu General and Distribution Corporation. His services were made permanent on 1/9/1994 as Helper. The petitioner was appointed as Junior Assistant on 1/9/1995. After passing the account test for Subordinate Services, he was promoted as Assistant on 11/9/1997, he was promoted as Selection Grade Assistant on 11/9/2006 and finally, he was also promoted as Accounts Supervisor on 6/1/2007.

3. For the promotion of Assistant Accounts Officer, a panel was prepared on 8/2/2011 taking the crucial date as 25/3/2010. In the said panel of 398 persons, petitioner's name was included at S.No.360 with service Seniority Number is 2061. The panel of 398 Accounts Supervisors was approved by the promotion Committee of the respondents vide proceedings in CMD TANGEDCO Proceedings No.7, dated 8/2/2011. However, basing on the vacancies, out of the approved panel of 398 persons, only 324 Accounts Supervisors were promoted as Assistant Accounts Officers.



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4. For the year 2012, for the purpose of promotion to the post of Assistant Accounts Officer, a panel was prepared by taking the crucial date as 25/3/2011, however, the said panel for the year 2012 was not released. The petitioner has made a representation dated 23/8/2012 to the respondents requesting to promote him as Assistant Account Officer.

5. After the lapse of one year, the respondent has published a panel for the year 2013 for promotion to the post of Assistant Accounts Officer by taking the crucial date as 25/3/2012. As per the proceeding dated 23/3/2013, 94 Accounts Supervisors were promoted as Assistant Accounts Supervisors. The petitioner's name was not found in the said Proceeding dated 23/3/2013. Aggrieved by the same, he has filed W.P.No.33260 of 2013, and the same was disposed of by this Court on 20/12/2013, directing the respondent Board to consider the petitioner's representation within a period of four weeks. The second respondent by way of impugned order, dated 28/1/2014 has rejected the representation of the petitioner. In the meanwhile, the petitioner was retired from service on attaining the age of superannuation on 31/12/2013.



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6. The second respondent has filed counter affidavit stating that the panel was prepared for promotion to the post of Assistant Accounts Officers, as per CMD TANGEDCO Proceedings No.7, Adm. Branch, dated 8/2/2011 taking the crucial date as 25/3/2010. In the said panel, petitioner's name is included at S.No.360 and however, out of 398 persons whose names were included in the said panel, only 323 Accounts Supervisors were promoted as Assistant Accounts Officers and the panel was exhausted on 7/2/2012 and on account of giving promotions as per the panel for the year 2011, the employees upto the Seniority Accounts Supervisors upto Seniority No.1997 were promoted as Assistant Accounts Officer.

7. It is also mentioned further in the counter affidavit that on account of administrative reasons, panel for the promotion of Assistant Accounts Officer was not prepared for the year 2012 taking the crucial date as 25/3/2011. However, for the year 2013 panel, the crucial date was taken as 25/3/2012 and panel was prepared for 133 Accounts Supervisors, by taking the seniority list upto 2039 including those persons who were deferred in the previous panel for passing the degree qualifications. Out of 133 Accounts Supervisors, whose names were included in the panel,



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94 persons were selected to the post of Assistant Accounts Officers as per the Proceeding No.29 dated 23/3/2013. However, the petitioner's name was not included in the panel, since his Seniority No.2061 has not reached. Further, as on 31/12/2013, there were only 23 vacancies and thereby, 23 Accounts Supervisors were promoted as Assistant Accounts Officers for the year 2014.

8. Heard both sides and perused the materials available on record.

9. According to the learned counsel for the petitioner, petitioner's name was though considered for the panel of 2011, he could not be promoted as there were less number of vacancies. Out of 398 Accounts Supervisors who were included in the panel for the year 2011, only 323 Accounts Supervisors were promoted as Assistant Accounts Officer, thereby 75 Accounts Supervisors could not be promoted. The contention of the petitioner is that when the panel was prepared in the year 2012 his name should have been considered for the promotion. However, as per the panel for the year 2012 could not be published on account of administrative reasons. Finally, the petitioner name should have been considered for promotion in the year 2013 panel. However, according to



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the respondents, the panel for the year 2013 was prepared with 133 Accounts Supervisors and out of which 94 were promoted as Assistant Accounts Officer, but the petitioner's name was not included. According to the learned counsel for the petitioner, when 94 Accounts Supervisors were promoted in the panel 2013, petitioner's name should have been included in the promotion list.

10. The requirement for promotion to the post of Assistant Accounts Officer is that the employee should have completed his graduation in B.com. The Accounts Supervisors who are not qualified B.Com degree holders are not eligible to be promoted as Assistant Accounts Officers. Therefore, whenever panel is being prepared, the respondent would delete the names of the persons who have not completed B.Com and include the names of those who have qualified B.Com.

11. When the panel for the year 2011 was prepared, many senior to the petitioner were not considered as they could not pass B.Com degree, thereby, petitioner's name was included in the panel. The Accounts Supervisors whose names could not be included in 2011 panel on account of non-completion of B.Com qualifications, in the meanwhile, passed



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B.Com graduation. Therefore, when 2013 panel was taken up for promotion though the petitioner was eligible, there were more number of eligible candidates senior to the petitioner, thereby, the petitioner could not reach the zone of consideration, thereby, his name was not included and he was not promoted.

12. It is submitted by the learned counsel for the petitioner that after the panel is prepared for the year 2012, taking the crucial date as 25/3/2011, the petitioner would have promoted as Assistant Accounts Officer. It is true that there could have been fair chances for the petitioner to be promoted as Assistant Accounts Officer if 2012 panel is prepared and promotions were given as Assistant Accounts Officer. However, as mentioned in the counter affidavit, on account of administrative issues, the panel for the year 2012 could not be published.

13. It is the settled legal position that on account of administrative exigencies, if at all promotions could not be given, the same cannot be a ground seeking for promotions. In the case on hand, the petitioner is urging this Court to direct the respondents to give the notional promotion to the petitioner so that he will get benefit in his pension and other retiral



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benefits. However, since the petitioner has not reached the zone of consideration, in the year 2013, he was not promoted and that since the panel for the year 2012 could not be prepared, it cannot be a ground to grant the relief to the petitioner as prayed for. In view of the above, the petitioner is not entitled for the relief as sought for.

14. In the result, this writ petition is dismissed. No costs.

15/3/2024

jai/mvs.

Index: Yes/No

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Dr.D.NAGARJUN,J



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