



W.P.No.8388 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.ARUL MURUGAN

W.P.No.8388 of 2012

&

M.P.No.1 of 2015

L.Gunasekaran

...Petitioner

Vs

1. Tamil Nadu Generation and Distribution Corporation Limited
Rep. By its Chief Engineer (Distribution)
Villupuram Zone
Villupuram
2. Superintending Engineer
Tamil Nadu Generation and Distribution Corporation Limited
Cuddalore Electricity Distribution Circle
Capper Hills
Cuddalore - 4
3. S.Syed Nazar
Senior Driver
O/o.Chief Store Officer
Central Store /TANGEDCO
Nathapattu
Cuddalore – 607 001
4. T.Anbuarivan
Senior Driver
O/o.Assistant Executive Engineer



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Rural/Panruti/TANGEDCO
Cuddalore District – 607 106

- 5.K.Rajendran
Senior Driver
O/o.Assistant Executive Engineer
Town/Chidambaram/TANGEDCO
Cuddalore District – 608 001
6. V.Ravichandran
Senior Driver
O/o.Assistant Executive Engineer/West
Boothamboor / Vridhachalam/TANGEDCO
Cuddalore District – 606 001
7. Selvam
Senior Driver
O/o. Assistant Executive Engineer
Town West/Pudhupalayam Road/TANGEDCO
Cuddalore – 607 001
8. G.Pazhanivel
Senior Driver
O/o.Assistant Executive Engineer
Pudhupalayam Road/TANGEDCO
Cuddalore – 607 001
9. M.K.Manikandan
Senior Driver
O/o.Assistant Executive Engineer
Towers Lines/27th Block
Neyveli
Cuddalore District – 607 801
10. K.Sugumar



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Senior Driver
O/o.Assistant Executive Engineer
Town/Nellikuppam/TANGEDCO
Cuddalore District

11. D.Sundaram
Senior Driver
O/o.Assistant Executive Engineer
Construction & Improvement
Kurinjipadi/TANGEDCO
Cuddalore District – 607 302
12. R.Elangovan
Senior Driver
O/o.Assistant Executive Engineer
Construction & Improvement
Kurinjipadi/TANGEDCO
Cuddalore District – 607 302
13. M.Arumugam
Senior Driver
O/o.Assistant Executive Engineer
Special Maintenance
Nathapattu/TANGEDCO
Cuddalore District – 607 001
14. R.Subramanian
Senior Driver
O/o.Assistant Executive Engineer
Construction & Improvement
Boothamboor/TANGEDCO
Vridhachalam, Cuddalore District – 606 001
15. T.Baskaran
Senior Driver
O/o.Assistant Executive Engineer
Construction & Improvement



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Chidambaram/TANGEDCO
Cuddalore District – 608 001

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records from the 2nd respondent, quash the Memorandum No.1207/Adm.2/A-1/F.Senior Driver & Driver/2011 dated 15.12.2011 issued by the 2nd respondent and the Letter No.222/Adm.II/A.1/F.Hevy Veh.Driver Suit/2012 dated 22.02.2012 issued by the 2nd respondent as illegal, abitrary and in violation of Articles 14 and 16 of the Constitution of India and consequently direct the respondent Nos.1 and 2 to restore the seniority of the petitioner in the post of Senior Driver by just placing the petitioner above the Respondent Nos.3 to 15 as found in the seniority list dated 08.04.2010 prepared on the basis as on 01.04.2010.

For Petitioner : Mr.Balan Haridoss

For Respondents : Mr.V.Janarthanan for R3 to R6
No appearance for R7 to R10
& R12 to R15

ORDER

This writ petition is filed challenging the order of the second respondent dated 15.12.2011 and the letter of the second respondent dated 22.02.2012 and for a consequential direction to restore the



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seniority of the petitioner in the post of Senior Driver.

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2. Originally the petitioner was appointed as a Driver in the respondent Board on 25.11.1995. According to him, he was upgraded as Line Inspector with effect from 16.06.1998 based on the order passed by the second respondent on 05.01.1999. It is his further case that the post of Line Inspector had been redesignated as Senior Driver. Pursuant to the voluntary request made by the petitioner, he was transferred from Tiruvarur Circle to Cuddalore Electricity Distribution Circle. On joining the Cuddalore Electricity Distribution Circle based on voluntary request he was placed in the bottom of the seniority list. It is the claim of the petitioner that already he was working as a Senior Driver, based on which he was included in the panel drawn in the category of Senior driver for being promoted to the post of Heavy Vehicle Driver and his name was also found place in Serial No.1 of such panel drawn but however by the subsequent proceedings, the name of the petitioner was wrongly included in the category of driver. The petitioner had made representation to the authorities objecting the revised seniority list on 28.12.2011 which was not considered and further the persons who found placed below the names of the petitioner in the original panel drawn were



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given promotion to the Heavy Vehicle Driver. Assailing this proceedings, the petitioner has preferred the present writ petition.

3. Mr.Balan Haridas, learned Senior counsel appearing for the petitioner submitted that even when the petitioner was working as Driver in the Thiruvarur Circle, the post was upgraded as Line Inspector as early as on 16.06.1998 where the post of Line Inspectors were further re-designated as Senior Drivers. As such, even when the petitioner was transferred from Thiruvarur Circle to Cuddalore Circle he was only transferred as a Senior Driver. It is his further contention that when once the petitioner was rightly included in the panel drawn in the category of Senior Driver and was placed in Serial No.1 in the panel, revision of seniority issued by the respondent arbitrarily placing the petitioner in the category of Driver is erroneous. It is his further contention that the respondents cannot unilaterally take away the post in which the petitioner was admittedly working even as per their own records and demote him to the post of Driver without any appropriate proceedings taken in this regard by putting him on notice and without affording him an opportunity. In such circumstances, he contended that the original panel drawn has to be given effect to and the petitioner ought to be promoted to



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the post of Heavy Vehicle Driver on par with the persons who were placed below him in the panel with retrospective effect.

4. Mr.V.Janarthanan, learned counsel appearing for the respondent Board submitted that the petitioner worked only as a driver and in the same category, he got voluntarily transferred to Cuddalore Electricity Distribution Circle where he was placed in the junior most in the seniority list and he was never promoted to the post of Senior Driver and when the panel was drawn, the name of the petitioner was wrongly included in the list of Senior Drivers and immediately on taking note of the error, by proceedings dated 15.12.2011, the petitioner had been rightly placed in the seniority list of Driver with effect from 12.12.2011. It is his further contention that only the persons who are working as Senior Driver are entitled to be promoted to the post of Heavy Vehicle Driver. When the petitioner had never been promoted to the post of Senior Driver, his claim for promotion on par with the persons who are actually promoted is without any basis and he sought for dismissal of the writ petition.



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5. I have considered the rival submissions and perused the materials available on record.

6. On a perusal of the records, it is seen that the respondents have issued proceedings wherein the petitioner was addressed only as a Senior Grade Driver and in fact even in respect of granting the selection grade, the same was granted in the category of Senior Driver and a clarity was sought in this aspect.

7. The learned Standing counsel for the respondents after obtaining instructions from the respondents produced the proceedings dated 04.07.2022 and submitted that in fact to resolve the issues, already the Superintending Engineer/second respondent has addressed to the Chief Engineer as to whether the following arrangement can be made by extending the benefits. The relevant portion of the communication is extracted hereunder:

'In order to give quietus to the long pending litigation before Hon'ble High Court, Madras it is requested for instructions as to whether, the following aspects can be considered please.

i) Movement to Selection Grade in the post of Driver in Line Inspector cadre on completion of 9 years in Driver Cadre i.e., on



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4.12.2004 FN by modifying the order for movement to Selection Grade in the post of Senior Driver.

ii) Promotion as Senior Grade Driver on the date of promotion of this seniors as Heavy Vehicle Driver i.e., with retrospective effect on 3.7.2012 FN. In the event of promoting the above individual who is already in Line Inspector Cadre Driver post carrying identical scale of pay in the post of Senior Driver, the procedure for fixing his pay in the promoted post may also be clarified please.'

8. On going through this proceedings served on the learned counsel for petitioner, both the counsel agreed to give a quietus on the issue since the petitioner had superannuated on 31.12.2023 from the post of Driver, but however with the higher scale of pay in the cadre of Senior Driver. In view of the consensus arrived at, the writ petition is disposed of with the following directions:

i) The petitioner having been appointed as Driver as on 04.12.1995, will be granted Selection Grade in the post of Driver in Line Inspector Cadre on completion of nine years in the driver cadre with effect from 04.12.2004;

ii) The petitioner will be promoted to the post of Senior Driver based on the date of promotion of his seniors as Heavy



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Vehicle Driver with retrospective effect from 03.07.2012 onwards;

iii) By taking into account of the promotion of the petitioner as Senior Driver from 03.07.2012, the Selection Grade in the category of Senior Driver will be extended to the petitioner on completion of nine years i.e., with effect from 03.07.2021;

iv) Since the petitioner had already retired from the post of Driver, as his salary having been fixed in the category of Senior Driver at the time of retirement, the same will be reworked and the petitioner would be treated as retired on 31.12.2023 in the category of Senior Driver with the selection grade having awarded with effect from 03.07.2021;

v) Revised pay scale by giving effect to the selection grade in the category of Senior Driver with effect from 03.07.2021 will be made and the necessary and consequential benefits including the pensionary benefits will be extended to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.



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The writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

20.12.2024

Index: Yes/No

Neutral Citation : Yes/No

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2. Superintending Engineer
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G.ARUL MURUGAN.J.,

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