IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No.6506 of 2015**

D.Gunasekaran ...Petitioner

Vs.

1.The Chairman Cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO)
114, Anna Salai, Chennai.

2.The Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO)
114, Anna Salai, Chennai.

3.The Deputy Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO) / TNEB Ltd.,
Thennur, Trichy – 620 017. ...Respondents

**Prayer:** Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus to call for the records connected with memo No.000262/0017/F.1/F.12/2014 dated 11.04.2014 issued by the 2nd respondent and quash the same and further direct the respondent Board to promote the petitioner to the post of Internal Audit Officer with all consequential and other attendant benefits.

For Petitioner : M/s. Anil Reswani

For Respondents : Mr. K.Rajkumar

**O R D E R**

The petitioner seeks to quash the memo dated 11.04.2014 in memo No.000262/0017/F.1/F.12/2014 issued by the 2nd respondent and to direct the respondents to promote the petitioner to the post of Internal Audit Officer with all consequential and attendant benefits.

2. The petitioner would contend that by proceedings dated 17.05.1993, he was provisionally selected for appointment as a Junior Auditor by direct recruitment and was temporarily appointed as a Junior Auditor. He was deemed to have completed his period of probation in the category to Junior Auditor by office order dated 09.03.1994.

3. Meanwhile, the petitioner had completed B.Com (Double Degree), from Annamalai University in May 2005. This fact was also informed to the respondent board by the petitioner's letter dated 17.11.2005. By reason of the above, the respondent board had sanctioned two incentive increments by raising his pay from Rs.7,900/- to Rs.8,350/- with effect from 24.05.2005 and the petitioner was also permitted to draw the arrears of pay and allowances.

4. Thereafter, the petitioner was promoted to the post of Assistant Audit Officer by order dated 05.03.2007 and was directed to take charge in the said post at Villupuram Region by order dated 07.03.2007. Thereafter, the petitioner also passed his M.Com degree from the Annamalai University as also the departmental examination stipulated for promotion to the post of Internal Audit Officer.

5. While so, the petitioner came to learn that his juniors were promoted to the post of Internal Audit Officer for the year 2013 – 2014 and on enquiry the petitioner came to know about the memo dated 03.04.2010 bearing Memo No.20233/A3/A32/2006-24, whereby the persons who possess one year B.Com (double degree) course under distant education mode cannot be considered for grant of incentive increment or promotion.

6. The petitioner made a representation dated 30.12.2013 to the

respondent board explaining how the memo would not be applicable to him. However, the respondent did not give any reply constraining the petitioner to file W.P.No.1136 of 2014 before this Court. This Court in the said Writ Petition directed the respondent board to consider the petitioner's representation within a period of 4 weeks. Thereafter, by way of the impugned order the representation of the petitioner was turned down as not feasible for compliance. Therefore, the petitioner has come forward with the present Writ Petition.

7. The learned counsel appearing for the petitioner would submit that since the petitioner received the incentive, as a matter of right he is entitled to promotion. He would further submit that by reason of the grant of incentive the respondent cannot consider seniority or qualification. He would submit that the petitioner has passed B.Com degree and therefore he ought to have been considered for promotion for the year 2013 – 2014.

8. Mr. K.Rajkumar, learned counsel appearing on behalf of the respondent Board would submit that persons who had passed the regular B.Com degree had challenged the promotion of the persons who had obtained B.Com (double degree) and had also represented that this degree obtained through Annamalai University was not a valid degree and therefore the 15 persons who had been promoted as an Assistant Audit Officer should be reverted.

9. He would further submit that by a memo dated 03.04.2010, the 1st respondent had ordered that persons who have completed one year B.Com (double degree course) under distant education mode cannot be considered for promotion. The payment of incentive and promotion which were already allowed to such persons other than those who have obtained stay orders from the High Court should be recovered and they be reverted. This memo has not been challenged by the petitioner though he has referred to the same in the affidavit filed in support of his writ petition. Without challenging the same,

the present writ petition is misconceived.

10. The learned counsel would further rely upon the Judgement of the learned Single Judge passed in W.P.No.12935 of 2010 relating to the identical situation where the learned Judge had observed that double degree is not a valid degree and the candidate cannot undergo two courses simultaneously and upheld the dismissal of the writ petitioner's request for considering his appointment to the post of Assistant Audit Officer taking into account the B.Com double degree issued to him.

11. He has also relied upon the Judgement of the Division Bench of this Court in W.A.No.1598 of 2016, where the Court was dealing with an appointment of a person as BT Assistant (English) who had obtained a double degree in English. The Division Bench relied upon the Full Bench Judgement in the case of ***R.Chitra and others Vs. Teachers Recruitment Board, Chennai and others –***

***W.P.Nos.16871 of 2020 and 25698 of 2017,*** where the Full Bench had categorically held that there was no obligation on the part of the University or the employers or the recruitment agency to recognize double degree courses in the absence of any rule in this regard.

12. Since the issue involved in the instant case is identical to the cases referred supra, he would submit that the Writ Petition has to be dismissed.

13. Heard the learned counsels and perused the records.

14. The short point which requires consideration of this Court is *whether the petitioner by receiving an incentive for having obtained a degree through a one year B.Com Course through distance education is entitled to promotion and whether the degree so obtained is valid one?*

15. The answer to the question as to whether the double degree is a valid degree has already been answered by the Full Bench in

***R.Chitra and others Vs. Teachers Recruitment Board, Chennai and others*** case referred supra. The Full Bench had observed that till such time as the UGC recognise the double degree courses there was no obligation on the part of the University or the employers or the recruiting agency to recognise such degrees. This Judgement continues to hold fort. Therefore, the degree obtained by the petitioner is not a valid degree.

16. As regards the argument that the payment of incentive gives a right to the petitioner to be promoted cannot be countenanced for a simple reason that for the promotion the authorities have not only take into consideration seniority but also the qualifications prescribed for the said promotional post. Since the qualification prescribes degree course it implies that such degree course should have been obtained through the regular stream. As the double degree is yet to be recognised by the University Grants Commission the petitioner cannot demand to be promoted.

17. Therefore, I see no reason to interfere with the impugned order. Accordingly, the Writ Petition stands dismissed. No costs. It is made clear that recovery will be subject to the result of the W.P.No.24248 of 2010.

**22.07.2024**

Index : Yes/No
Internet : Yes/No
kan

To

1.The Chairman Cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO)
114, Anna Salai, Chennai.

2.The Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO)
114, Anna Salai, Chennai.

3.The Deputy Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO) / TNEB Ltd.,
Thennur, Trichy – 620 017.

**P.T. ASHA, J,**

kan

**W.P.No. 6506 of 2015**

**22.07.2024**