



W.P.No.12287 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12287 of 2023 and
W.M.P.Nos.12124 & 12125 of 2023

K.Sivakumar

...Petitioner

-Vs-

1.The Chief Engineer (Personnel),
TamilNadu Generation and Distribution Corporation Ltd.,
8th Floor, NPKRR Maaligai,
144, Anna salai,
Chennai – 600 002.

2.The Chief Engineer
Tamil Nadu Generation and Distribution Corporation,
Erode Division,
Erode District.

3.The Superintending Engineer,
Tamilnadu Generation and Distribution Corporation,
Namakkal Electricity Distribution Circle,
Namakkal District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of impugned order on the file of the first respondent in Memo No.062479/G1/G11/2022 dated 07.11.2022 and to quash the same and consequently direct the first respondent to promote the petitioner as Assistant Executive Engineer for the Panel Year 2021-2022.

For Petitioner : Mr.V.C.Selvasekaran

For Respondents : Mr.K.Raj Kumar
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 07.11.2022 thereby rejected the request made by the petitioner seeking permission to the post of Assistant Executive Engineer.

2. The petitioner was initially appointed as Assistant Engineer in



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the year 2005 in the Respondent Corporation. While he was working as Assistant Engineer, Tiruchengode Sub-Division, the 3rd respondent framed charges against the petitioner under Rule 8(b) of TANGEDCO Rules and Rule 3 (a) consisting two charges. Without satisfying the explanation submitted by the petitioner, enquiry was conducted. As per enquiry report, the petitioner was imposed with punishment of stoppage of increment for a period of two year without cumulative effect. In the appeal proceeding, it was modified as one year stoppage of increment without cumulative effect. Once again, the petitioner was served with charge memo under Rule 8(b) of TANGEDCO and Rule 3(a) and 3(c). Based on the enquiry report, the petitioner was imposed with punishment of stoppage of increment for a period of two years with cumulative effect. It was also confirmed by the appellate authority. That apart, the petitioner was served with another charge memo alleging that he has misappropriated sum of Rs.78,240/-. After enquiry, passed final order and thereby the petitioner was imposed punishment of stoppage of increment with cumulative effect. It was also confirmed by the appellate authority and rejected the mercy petition filed by the petitioner. The punishment were completed as on 30.09.2021. However,



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the petitioner was not considered for the panel to the post of Assistant Executive Engineer dated 13.10.2022.

3. The learned counsel for the petitioner would submit that on the date of preparing the panel, there was no punishment to the petitioner and as such the 3rd respondent also prepared the panel. The petitioner submitted representation to include the petitioner in the panel to the post of Assistant Executive Engineer. The same was rejected by an order dated 07.11.2022.

4. On perusal of the records revealed that the petitioner was imposed with three punishments and the same were completed as on 30.09.2021. However, as per the Board Proceedings (FB).No.38, dated 11.10.2010, "Whenever an officer/employee is undergoing any punishment on the crucial date or on the date of consideration, then irrespective of the time of occurrence of the irregularity, his name should be passed over for that panel. Thereafter, he was also qualified with currency of punishment (including withholding of increment) begins when the punishment order is communicated to the concerned officer/employee of TANGEDCO and



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concludes when the actual period of punishment is over. Though, the punishment imposed on the petitioner was completed as on 30.09.2021, crucial date for preparing panel was 05.08.2021. The petitioner was undergoing punishment.

5. The learned counsel for the petitioner relied upon the judgement of Full Bench of this Court in Batch of W.A.(MD).No.315 of 2010 dated 27.04.2011. This Court held that after the period of punishment was over, in respect of petitioners, they are eligible for being considered for further promotion, if they are otherwise eligible. It is true that after completion of punishment, the employer is entitle for promotion and to be included in the subsequent panel. In the case on hand the currency of punishment was pending as on crucial date i.e., 05.08.2021. Therefore, the name of the petitioner was not included in the panel for the post of Assistant Executive Engineer. The above judgement is not applicable to the case on hand.

6. In view of the above, the request made by the petitioner was



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rightly rejected and this Court cannot find any infirmity or illegality in the order passed by the first respondent dated 07.11.2022. Though, the learned counsel for the petitioner contended that the date of preparation of panel, there was no punishment to the petitioner. The petitioner completed punishment as on 30.09.2021. Therefore, the petitioner is entitle to be included only in the subsequent panel.

7. In view of the above, the 3rd respondent is directed to consider the name of the petitioner in the subsequent panel to the post of Assistant Executive Engineer. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Speaking/Non-Speaking order
Neutral Citation : Yes/No
gvn

To

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G.K.ILANTHIRAIYAN,J.
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