



W.P.No.31204 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **09.07.2024**

CORAM

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

W.P.No.31204 of 2014
and
M.P.Nos.1 and 2 of 2014

K.Sugumar

... Petitioner

-VS-

- 1.The Chairman Cum Managing Director,
Tamilnadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai – 600 002.
- 2.The Chief Engineer/Personnel,
Tamilnadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai – 600 002.
- 3.The Superintending Engineer,
Nagapattinam Electricity Distribution Circle,
Nagapattinam.



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4.The Executive Engineer,
Tamilnadu Generation and Distribution
Corporation Limited,
Operation and Maintenance,
Nagapattinam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the entire record pursuant to the Memo in No.Koo.Aa.No.435/NeePee.1/Vo.1/Koo.Assessor/14 dated 12.11.2014 on the file of the 3rd respondent, quash the same.

For petitioner : Mr.P.Chandrasekaran

For respondents : Mr.K.Purushothaman,
Standing Counsel

ORDER

The writ petitioner seeks to quash the memo dated 12.11.2014 demoting him to the post of Assessor Grade-II from the post of Assessor.

2. To appreciate his grievance, the factual matrix is as set



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out hereinbelow.

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2.1. The petitioner had been appointed by way of compassionate appointment on account of death of his father on 03.01.2008. The petitioner had been appointed in the post of Assessor Grade-II as a trainee *vide* order dated 08.09.2008. As per Clause III of his appointment order, on completion of six months of satisfactory training, he has to be appointed as Assessor in the time scale of pay. The petitioner had submitted that on completion of his six months training period, he was appointed as Assessor and her regular pay was fixed *vide* order dated 20.04.2009.

2.2. However, by an order dated 12.11.2014, he had been demoted to the post of Assessor Grade II from the post of Assessor. The petitioner had not received any notice or letter prior to that. The petitioner would submit that the post of Assessor is under regulation 92 of the respondents Board and his appointment as Assessor by



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order dated 20.04.2009 had clearly referred to this regulation. The respondents had also ordered recovery of the excess payment made to the petitioner. Therefore, aggrieved petitioner is before this Court.

2.3. Though the respondents have not filed their counter, they have made their submissions. The learned Standing Counsel appearing for the respondents would contend that the petitioner's appointment is a compassionate appointment to the post of Assessor Grade-II as a trainee.

2.4. As per the proceedings of the Board, the qualification for the post of Assessor Grade-II would read as follows:

“7.The qualification of the post of Assessor Grade-II shall be S.S.L.C. (i.e. Minimum General Educational Qualification). The appointment to the post of Assessor Grade-II shall be made from among the contract labourers to the absorbed and possess the requisite qualification, based on need.”



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2.5. The petitioner had been inducted by the order dated 08.09.2008 of the third respondent. He was appointed as Assessor Grade-II trainee initially on a consolidated pay. On completion of his six months training period satisfactorily, he will be appointed in the post of Assessor in the time scale of pay.

3. Heard the learned counsel on either side and perused the materials available on record.

4. It is the case of the petitioner that by an order dated 20.04.2009, the third respondent had regularized the petitioner in the post of Assessor on a time scale of pay of Rs.3370-100-6370. The petitioner has been working in the said post since then. All of a sudden, the third respondent has passed the impugned order.

5. A perusal of the impugned order would clearly indicate that it does not taken into account the terms of the appointment order



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viz., on satisfactory completion of six months, the petitioner would be appointed in the post of Assessor in the time scale of pay of Rs.3370-100-6370. The petitioner has been regularized in the post of Assessor nearly seven months after his appointment and therefore, it is very much in keeping with the terms of his appointment. Therefore, the impugned order of reverting the petitioner to the post of Assessor Grade-II, that too, without issuing a show cause notice and hearing the petitioner, is *per se* illegal and has to be set aside.

6. That apart, the recovery of excess amount as alleged cannot be effected in the light of the judgment of Hon'ble Supreme Court in the case of ***State of Punjab vs. Rafiq Masih*** reported in ***(2015) 4 SCC 334*** popularly called as White Washer's Case. Further, the post of Assessor falls within the category of Clause III and recovery of amount from employees to this Clause has been held to be impermissible under law. Therefore, the impugned order has to be necessarily quashed and is accordingly, quashed.



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Therefore, this writ petition is allowed. Consequently,
connected M.Ps. stand closed. No costs.

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Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
ssa

To

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- 3.The Superintending Engineer,
Nagapattinam Electricity Distribution Circle,
Nagapattinam – 611 101.
- 4.The Executive Engineer,
Tamilnadu Generation and Distribution
Corporation Limited,
Operation and Maintenance,
Sirkali, Nagapattinam – 609 111.



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