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Writ Petition No.21696 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.21696 of 2024

and

W.M.P.Nos.23674 & 23676 of 2024

A.Sivakumar

S/o.S.Ayyappan

... Petitioner

Vs.

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.

2.The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai,
Chennai - 600 002.

3.The Superintending Engineer,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Thiruvannamalai Generation and
Distribution Circle,
Thiruvannamalai - 606 602.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for all the records, pertaining to the Memo No.031354/G.53/G.531/2023-1, dated



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13.03.2024 on the file of second respondent and subsequent Memo No.031354/G.53/G.531/2023-2, dated 13.03.2024 on the file of second respondent and to quash the same, insofar as the petitioner alone is concerned and consequentially direct the second respondent, to include the name of the petitioner, in the promotion panel, for the post of Administrative Supervisor, in TANGEDCO, for the year 2023-2024.

For Petitioner : Mr.P.Raja

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned Memo No.031354/G.53/G.531/2023-1, dated 13.03.2024, on the file of the second respondent and the subsequent Memo No.031354/G.53/G.531/2023-2, dated 13.03.2024, on the file of second respondent and for a consequential direction to the second respondent to include the name of the petitioner in the promotion panel for the post of Administrative Supervisor in TANGEDCO for the year 2023-2024.

2. Heard Mr.P.Raja, learned counsel for petitioner and Mr.K.Rajkumar, learned Standing Counsel appearing for respondents.

3. The case of the petitioner is that he is working as an



Assistant (Administration) in the office of the second respondent. A charge memo was issued against the petitioner and a punishment of stoppage of increment for a period of five years with cumulative effect was imposed. This period of punishment came to an end on 01.04.2021.

4. In the mean time, the petitioner was transferred from Tiruvannamalai to the Generation Circle at Kundha. This was challenged and initially, the writ petition was dismissed and a writ appeal was filed. In the writ appeal, the petitioner was directed to report to the transferred place and the period during which he did not work in Kundha was directed to be treated as 'No Work No Pay'. Consequently, the petitioner also joined in the Kundha Generation Circle on 10.11.2021. Pursuant to the direction issued by the Division Bench, the service period of the petitioner was regularized and the period during which he did not join was treated as an extraordinary leave without pay and allowances.

5. The first respondent, through letter dated 03.01.2024, called upon the Chief Engineers/Additional Chief Engineers/Superintending Engineers, to furnish details of those eligible for promotion to the post of Administrative Supervisor for the preparation of panel for the promotion



list 2023-2024. The crucial date for promotion was fixed as 20.03.2024.

A list was prepared and the name of the petitioner also found place in the seniority list.

6. The second respondent issued a memo dated 13.03.2024 wherein the names of 105 Assistants (Administration) were mentioned in Annexure-A and they were provisionally selected and included in the panel for promotion to the post of Administrative Supervisor. It was further mentioned that seven unselected employees whose names were found in Annexure-B can prefer an appeal within a period of two months from the date of communication of the approved list.

7. The grievance of the petitioner is that even before an appeal was filed, on the very same day i.e. on 13.03.2024, the impugned memo was issued and the 105 selected candidates were allotted to various circles on regular basis to the post of Administrative Supervisor. It is under these circumstances, the present writ petition has been filed before this Court.

8. In the considered view of this Court, Rule 98(2)(b) of the



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Tamil Nadu Electricity Board Service Regulations deals with the revision of orders for promotion to selection post. Whenever the list is published, any person, who has not been included in the approved list, can file an appeal within a period of two months from the date of communication of the approved list. If no appeal is received within the said period, the approved list will be deemed to be final. The Memo No.031354/G.53/G.531/2023-1, dated 13.03.2024, was in compliance with this rule and those candidates, who were not included in the list and whose names were shown in Annexure-B were directed to file an appeal. However, on the very same day, yet another memo has been issued in Memo No.031354/G.53/ G.531/2023-2, dated 13.03.2024, whereby 105 Assistants (Administration), who were selected for promotion, were allotted to various circles on regular basis to the post of Administrative Supervisor. This was done even without waiting for the filing of appeal by those persons, whose names were not included in the approved list.

9. In the light of the above development, the petitioner has not filed any appeal before the first respondent and he has approached this Court challenging the subsequent memo issued whereby 105 persons have already been accommodated to the post of Administrative



Supervisor.

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10. Learned Standing Counsel appearing on behalf of respondents submitted that the petitioner is not entitled for any relief since he has not even filed an appeal as is mandated under Rule 98(2)(b) of the Tamil Nadu Electricity Board Service Regulations.

11. The filing of an appeal as against the approved list would arise if the approved list had not been implemented for a period of two months, which is the appeal period. If the authority has not waited for this period and has implemented the approved list and promoted 105 candidates on the same day, no useful purpose will be served even if an appeal is filed. It has become a fait accompli.

12. Considering the fact that 105 Assistants (Administration) have already been promoted to the post of Administrative Supervisors and have been allotted to various circles on regular basis, their promotions cannot be questioned without adding them as parties to the writ petition. In any case, this Court is not inclined to disturb the position as it exists today. However, the petitioner should not be deprived of an opportunity



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to seek for such promotion. Hence, appropriate directions can be issued by this Court by balancing the rights of the petitioner and also the respondents.

13. The petitioner is directed to file an appeal before the first respondent within period of two (2) weeks from the date of receipt of a copy of this order. The first respondent shall deal with the appeal on its own merits and in accordance with law, take a decision and convey the same to the petitioner within a period of eight (8) weeks thereafter. The promotion of the petitioner to the post of Administrative Supervisor will be subject to the final decision that is to be taken by the first respondent.

This Writ Petition is disposed of in the above terms. No costs.
Consequently, connected miscellaneous petitions are closed.

05.08.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

N.ANAND VENKATESH, J



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