



W.P.No.21080 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.21080 of 2021

A.Yakop

... Petitioner

Vs.

1.The Superintending Engineer,
Electricity Department,
Puducherry.

2.The Officer on Special Duty,
Electricity Department,
Puducherry.

3.The Secretary to Government,
(Welfare)-cum-State Commissioner,
Directorate of Social Welfare,
Government of Puducherry,
Puducherry.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire record and the impugned order No.3354/ED/Estt/A3(A)/2021-22 dated 11.05.2021 on the file of the second respondent and quash the same and direct the respondents to regularise and confirm the petitioner's service in the promotion post of Bill Collector with seniority from 01.08.2014 and pay the difference of salary applicable to Bill Collector.



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For Petitioner : Mr.K.V.Anthakrushnan
For Respondents : Mr.R.Sreedhar, AGP

ORDER

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the entire record and the impugned order No.3354/ED/Estt/A3(A)/2021-22 dated 11.05.2021 on the file of the second respondent and quash the same and direct the respondents to regularise and confirm the petitioner's service in the promotion post of Bill Collector with seniority from 01.08.2014 and pay the difference of salary applicable to Bill Collector.

2. Heard Mr.K.V.Anthakrushnan, learned counsel for the petitioner and Mr.R.Sreedhar, learned Additional Government Pleader for the respondents.

3. The learned counsel for the petitioner submitted that the impugned order would only state that the promotion of the petitioner can be considered only by placing it before the Departmental Promotion Committee.

4. It is further submitted that in the earlier Writ Petition filed in



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W.P.No.3852 of 2021, a specific order has been passed as under:

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"5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the respondents, the writ petition is disposed of with the following directions:

i) A direction is issued to the respondents, more particularly, the first respondent herein to consider the representation submitted by the petitioner dated 13.01.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be



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treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 13.01.2020 and this order, to the first respondent forthwith;

v) The first respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner,



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they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs."

5. Thereafter, the petitioner was not called to appear before the Departmental Promotion Committee. But the impugned order has been passed without respecting the order of this Court made in W.P.No.3852 of 2021 dated 23.02.2021, in its true letter and spirit.

6. When the Court has directed to consider the representation of the petitioner, the respondents without passing any orders, have stated that the matter is placed before Departmental Promotion Committee. If the petitioner considers that the earlier direction has not been complied, is always open to him to initiate contempt proceedings against the respondents for violation of the order passed by this Court in the above Writ Petition.



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7. However, the learned Additional Government Pleader for the respondents submitted that the promotion of the petitioner is still under consideration.

8. In view of the same, the respondents are directed to pass an order of promotion to the petitioner within a period of four weeks from the date of receipt of a copy of this order. In the event of failure to do so, the petitioner is at liberty to initiate contempt action against the respondents.

9. With the above observations, this Writ Petition is disposed. No costs.

14.03.2024

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

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R.N.MANJULA, J.

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