



W.A(MD)No.447 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE L. VICTORIA GOWRI**

W.A(MD) No.447 of 2019

F.X.Mary Magdelin Princy

... Appellant/Petitioner

Vs.

1.The Chairman cum Managing Director,
TANGEDCO,
Chennai.

2.The Chief Engineer,
Office of the Chief Engineer,
Distribution, Trichy.

3.The Superintending Engineer,
Trichy Electrical Distribution Circle,
Metro-Trichy-20,
Trichy District.

... Respondents/Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order made in W.P(MD)No.556 of 2015 dated 19.11.2018.

For Appellant

:Mr.R.Sundar

For R-1 to R-3

:Mr.B.Ramanathan



W.A(MD)No.447 of 2019

JUDGMENT

WEB COPY

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred challenging the order, dated 19.11.2018 passed by a learned Single Judge dismissing WP(MD)No.556 of 2015.

2. The facts fall within a very narrow compass and they are as below:-

- On 01.10.1988, the appellant was appointed as Assistant Engineer (Electrical) and on 01.09.2003, she was promoted as Assistant Executive Engineer. While she was serving in that post, on 12.03.2013, a panel was prepared for considering the candidates to the next promotional post, in which the appellant's name figured at 70th place.
- Punishment was imposed on the appellant vide proceedings dated 21.03.2013 and the penalty imposed was to stop increment for six months without cumulative effect. This was challenged by the appellant and the appellate authority reduced the period of penalty from six months to three months.



W.A(MD)No.447 of 2019

- According to the appellant, this period of three months will end on 21.06.2013, whereas she was not considered for promotion thereafter. The explanation of the respondents has been that if three months period is to be reckoned from the date of imposition of punishment, then it will end on 21.06.2013. But the nature of penalty imposed was stoppage of increment and the next increment fell due only on 01.07.2013. Thereafter, the penalty could be given effect to only from 01.07.2013 and accordingly, duration of the penalty must have to be reckoned from 01.07.2013, which implies it expires only on 31.10.2013.

3. Before the learned Single Judge, neither side appeared. The learned Single Judge appreciated the case based on the affidavit before him and chose to accept the version provided in the counter and dismissed the petition. This order of the learned Single Judge is now under challenge.

4. Heard both sides. The learned counsel appearing for the appellant brought to the notice of this Court a board memo dated 23.11.2012 and in particular, the second paragraph thereof, it has been extracted in the



W.A(MD)No.447 of 2019

counter of the respondent. He submitted that the period of penalty must be reckoned from the date on which the said order imposing penalty is communicated to the delinquent. Alternatively, he submitted that even if the respondent's version is accepted, then the period of punishment imposed on her ends by 31.10.2013 which implies that the appellant's case for promotion should have been actively considered when promotions were given after 31.10.2013 that however was not given and she was promoted as Executive Engineer only sometime in 2015.

5.The respondents' line of contentions has been what it was and it does not require elaborate narration.

6.The two points that emerge in this case are,

- a) When the appellant's name could be considered for promotion?;
and
- b) Depending on the answer to the question in (a) where her seniority should be fixed?

7. So far as the first question is concerned, this Court is not impressed with the submission of the learned counsel for the appellant and holds



W.A(MD)No.447 of 2019

that the period of punishment will end only on 31.10.2013. So far as the fixation of seniority is concerned, it flows as a consequence to the earlier mentioned position in that the case of the petitioner should be considered or should have been considered when the next promotions were made after 31.10.2013. This depends on what her seniority was in the list prepared in the panel prepared for promotion prior to 31.10.2013.

8. This Court is informed that it is a Statewide seniority which is prepared for promotional purposes. Now, if the appellant has not been considered for promotion despite her seniority over her juniors in terms of the panel for promotion prepared prior to 31.10.2013, then to deny her promotion after 31.10.2013 and before her actual date of promotion as Executive Engineer is patent injustice meted out to her by the Department. However this Court is conscious that\ the others who are likely to be affected if the seniority of the appellant is fixed above them are not before this Court. Therefore, this Court directs the appellant to approach the TANGEDCO to refix the seniority in terms of what is herein held in this order.



W.A(MD)No.447 of 2019

WEB COPY

9. In view of the same, this Court disposed of the appeal confirming the order of the learned Single Judge, dated 19.11.2018 passed in WP(MD)No.556 of 2015 and the the appellant is directed to approach the TANGEDCO authorities to refix her seniority if her name was not considered for promotion immediately after 31.10.2013 and before the date of actual promotion to the Post of Executive Engineer within a period of two weeks from the date of which this order is hosted in the official website of this Court if she so desires. Once any such application is filed by the appellant, the respondents shall deal with the same as per Rules. No Costs.

(N.S.S., J.)

(L.V.G., J.)

14.06.2024

NCC : Yes/No

Index : Yes/No

PM



W.A(MD)No.447 of 2019

To
WEB COPY

- 1.The Chairman cum Managing Director,
TANGEDCO,
Chennai.
- 2.The Chief Engineer,
Office of the Chief Engineer,
Distribution, Trichy.
- 3.The Superintending Engineer,
Trichy Electrical Distribution Circle,
Metro-Trichy-20,
Trichy District.



WEB COPY



W.A(MD)No.447 of 2019

N. SESHASAYEE, J.
and
L.VICTORIA GOWRI, J.

PM

W.A.(MD) No.447 of 2019

14.06.2024