



W.P.(MD)No.19915 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.19915 of 2022

and WMP (MD) No.14507 of 2022u

P.Balasubramanian

: Petitioner

Vs.

- 1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai,
Tamil Nadu Electricity Board,
Chennai 600 002.
- 2.The Chief Engineer,
TANGEDCO, Madurai.
- 3.The Superintending Engineer,
Dindigul Electricity Distribution Circle,
TANGEDCO, Dindigul.
- 4.The Superintending Engineer,
Coimbatore Electricity Distribution
Circle (South),
TANGEDCO, Coimbatore.
- 5.The Superintending Engineer,
Madurai Electricity Distribution Circle,
TANGEDCO, Madurai.



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6. The Chief Engineer,
TANGEDCO, Coimbatore.

7.P.Murugesan

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 4th respondent in Ku.Aa.No.002589/323/Nee.Pi-2(3)/ Koo.Vazhakku.Pa.Voo.E/2022 dated 22.07.2022 and the consequential order of the 4th respondent in Ka.No. 002589/323/Nee.Pi-2(3)/Koo.Vazhakku.Pa.Voo.E/2022-1 dated 29.07.2022 to the 5th respondent de-promoting the petitioner from the post of senior Driver to Driver with effect from 28.09.1998 and to refix the seniority accordingly, to set aside the same.

For Petitioner : Mr.Sricharan Rangarajan
Senior Counsel

For Respondents : Mr.B.Ramanathan
Standing Counsel for R1 to R6
Mr.K.Anandan for R7

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for records pertaining to the orders passed by the fourth respondent dated 22.07.2022 and the consequential



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order dated 29.07.2022, de-promoting the petitioner from the post of senior Driver to Driver with effect from 28.09.1998 and to refix his seniority.

2. Learned Senior Counsel for the petitioner submitted that earlier, the seventh respondent had filed W.P. (MD) No.5969 of 2012 before this Court challenging the promotion given to the petitioner herein and this Court had set aside the impugned order therein vide its order dated 03.02.2012 and remitted back the matter to the authorities to rework the entire issue and to refix the seniority of both the petitioner and the seventh respondent, as per the regulations of the Tamil Nadu Electricity Board after affording them an opportunity of personal hearing. The relevant paragraphs are extracted hereunder:-

“11. For the reasons above stated, the order impugned in the present writ petition is set aside and the matter is remitted back to the authorities to rework the entire issue and refix the seniority of the drivers as per the Regulations of the Tamil Nadu Electricity Board, in the appropriate place including petitioner, after affording an opportunity of hearing to the petitioner, sixth respondent and



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other affected persons. Accordingly, the writ petition stands allowed. No costs. Consequently, the connected Miscellaneous Petition is closed. ”

3. The learned Senior Counsel for the petitioner further submitted that pursuant to the aforesaid order dated 03.02.2021, since the aforesaid exercise has not been completed, the petitioner had preferred an appeal in W.A. (MD) No.2104 of 2021 and this Court, by its judgment dated 22.11.2021, directed the petitioner and the seventh respondent to appear before the authorities and explain their respective cases for the early fixation of their seniority. The relevant paragraph is extracted hereunder:-

“2. Therefore, it is only the relevant number of years at the relevant point of time, which has to be taken into consideration. Since the dispute is with respect to the number of years of experience computed for the purpose of promotion, the learned single Judge has set aside the order and remitted the matter back to the authorities, to re-work the entire issue, in the process of fixing seniority of the drivers, as per the Regulations of the Tamil Nadu



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Electricity Board and fix the seniority of the writ petitioner as well as the 6th respondent, who is the appellant herein, after affording them an opportunity of personal hearing for establishing their right.”

4.The learned Senior Counsel further submitted that the grievance of the petitioner is that even though there was no specific direction of this Court to de-promote the petitioner from Senior Driver to Driver, the fourth respondent had passed the impugned order de-promoting the petitioner as Driver with effect from 28.09.1998. Even assuming that the petitioner is de-promoted as Driver with effect from 28.09.1998, subsequently, he ought to have been promoted as Senior Driver with effect from 28.08.2002. Therefore, the impugned orders passed by the respondents are liable to be set aside.

5. In addition, the learned Senior Counsel appearing for the petitioner submitted that the petitioner has also submitted a representation on 27.12.2021, however, without considering the representation and providing the opportunity of personal hearing, the fourth respondent had passed the impugned order dated 29.07.2022,



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which is in violation of principles of natural justice.

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6. In response to the aforesaid submission made by the learned Senior Counsel appearing for the petitioner, the learned Standing Counsel appearing for the respondents 1 to 6 submitted that necessary opportunity of personal hearing would be afforded to the petitioner and that the petitioner and the seventh respondent may attend the hearing on the dates that would be fixed by the respondents.

7. Heard the learned counsel for the parties and perused the material available on record.

8. In view of the submissions made by the learned Senior Counsel for the petitioner as well as the learned Standing Counsel appearing for the respondents 1 to 6 and also taking into consideration the denial of providing opportunity of personal hearing to the petitioner and the seventh respondent, the proceeding passed by the fourth respondent is liable to be set aside and accordingly the same is set aside and the matter is remanded back to the fourth respondent for fresh



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consideration based on the representation of the petitioner dated 27.12.2021 by affording opportunity of personal hearing to both the parties.

9. The notice of hearing must be sent to the petitioner as well as the seventh respondent mentioning the date of hearing and time by way of registered post with acknowledgment due card and appropriate orders to be passed on merits and by following the rules and regulations in vogue.

10. The aforesaid exercise shall be completed within a period of 8 weeks from the date of receipt of a copy of this order.

11. The writ petition stands disposed of with the aforesaid observations and directions. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

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J.SATHYA NARAYANA PRASAD, J.

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