



W.P. No. 10309 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 10309 of 2018

and

W.M.P. No. 12241 of 2018

G.Murugesan

... Petitioner

-VS-

1. Tamilnadu Generation and Distribution Corporation Ltd.
Rep. by its Chairman cum Managing Director
No.144, Anna Salai, Chennai-600002.
2. The Chief Engineer/Personnel
Tamilnadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai-600002.
3. The Superintending Engineer (P&A)
Ennore Thermal Power Station
Ennore, Chennai-57.
4. V.Perumal
5. M.Chitra
6. K.Kasimuthu
7. S.Dakshinamurthy

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire record connected with the impugned order passed by the second respondent vide Memo No.100725/615/ G.9/G.92/2015 dated 11.04.2017 and quash the same and direct the respondents to fix his seniority in the appropriate place in



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the seniority list (ie) between P.V.Thamodharan and V.Perumal in Memo No.104123/1394/ E3(1)/94-1 dated 14.09.1994 as per (Per.) B.P. (FB) No.1 (Administrative Branch), dated 28.01.1997 and consequently promote the petitioner as Assistant Executive Engineer / Mechanical and Executive Engineer / Mechanical on par with the third respondent w.e.f. 29.12.1997 and September 2013 respectively with all consequential benefits.

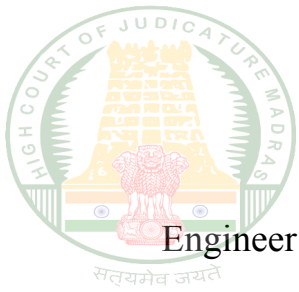
For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

Heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.K.Rajkumar, learned Standing Counsel for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. This writ petition has been filed to call for the records of the second respondent vide Memo No.100725/615/ G.9/G.92/2015 dated 11.04.2017 and quash the same and to direct the respondents to fix his seniority of the petitioner in the appropriate place in the seniority list between P.V.Thamodharan and V.Perumal in Memo No.104123/1394/ E3(1)/94-1 dated 14.09.1994 as per (Per.) B.P. (FB) No.1 (Administrative Branch), dated 28.01.1997 and to consequently promote the petitioner as Assistant Executive



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Engineer / Mechanical and Executive Engineer / Mechanical on par with the

third respondent w.e.f. 29.12.1997 and September 2013 respectively with all consequential benefits.

3. The petitioner has been appointed as a Mechanical Estimator on compassionate ground. He has been appointed as an Assistant Engineer by internal selection on 29.12.1989 and thereafter, he was promoted to Assistant Executive Engineer on 22.05.2003.

4. The learned counsel for the petitioner submitted that a direct recruit by name V.Perumal has been appointed to the post of Assistant Engineer on 08.12.1988 has got his promotion to the Assistant Executive Engineer (Mechanical) on 29.12.1997 and he has been kept in the senior list above the petitioner. Admittedly, the petitioner has not been appointed as Assistant Engineer through direct recruitment in order to compare himself with V.Perumal who has been appointed directly as Assistant Engineer (Mechanical).

5. The contention of the petitioner is that he also possessed B.E. in Mechanical qualification and hence at the time of compassionate appointment



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itself, he ought to have been appointed to the post of Assistant Engineer and not

Mechanical Estimator. His further contention is that the recruitment Rules to the post of Assistant Director (Mechanical) only prescribes the qualification in B.E. Mechanical and not any I Class. In the impugned order dated 11.04.2017, the reason for rejecting the petitioner's representation to accord him the seniority in the post of Assistant Engineer (Mechanical) with effect from 07.10.1988 on the findings that the petitioner did not have B.E. Mechanical I Class.

6. The learned counsel for the respondents submitted that even though the qualification eligible for the direct recruitment to the post of Assistant Engineer (Mechanical) does not prescribe the I Class in Mechanical Engineering, the compassionate appointment scheme would stipulate that only if an applicant under the compassionate appointment scheme possesses the I Class in B.E., he can be appointed as an Assistant Engineer. When the terms of the scheme mandates a I Class B.E. for the post of the Assistant Engineer through compassionate appointment, the respondent could not have violated the same. As the petitioner did not possess the I Class B.E., he has been appointed as Mechanical Estimator.

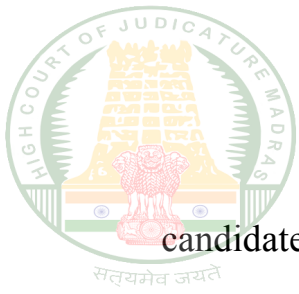


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7. The learned counsel for the petitioner submitted that when the Regulation itself contemplates only a pass in the B.E. Mechanical, the Executive instructions cannot exceed the scope of the Regulations and prescribe an additional qualification of mandating a I Class in the B.E. (Mechanical).

8. The petitioner has not challenged his compassionate appointment through which he has been initially posted as a Mechanical Estimator. Neither had he chosen to challenge the executive instructions pertaining to the scheme of compassionate appointment of the respondent Board by stating that it is *ultra vires* to the Regulations of the respondent. Having accepted the post lower in the cadre of Assistant Engineer and joined in the said post on 16.11.1988 and later, got appointed through internal selection as Assistant Engineer on 29.12.1989, the petitioner cannot claim parity with the persons, who had appointed by direct recruitment on 08.12.1988.

9. It appears that the petitioner was given with the benefit of the internal selection only because he did not have the I Class to be directly appointed as Assistant Engineer under the compassionate scheme. Having availed the same, the petitioner cannot now claim that he should be treated on par with the other



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candidate who entered through the direct recruitment selection process. As the

claim of the petitioner is baseless, I do not find any merits.

10. In view of the above stated reasons, this writ petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

25.02.2025

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

1. The Chairman cum Managing Director
Tamilnadu Generation and Distribution Corporation Ltd.
No.144, Anna Salai, Chennai-600002.
2. The Chief Engineer/Personnel
Tamilnadu Generation and Distribution Corporation Ltd.
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R.N.MANJULA, J.

Maya

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