

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2014

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THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.NO.33748 OF 2014

A.Velusamy .. Petitioner

Versus

1. Tamilnadu Generation & Distribution Corporation rep.by the Chairman/
Managing Director, Head Quarters
Complex, 144, Anna Salai,
Chennai - 2
2. The Chief Internal Audit Officer,
Audit Branch, Tamilnadu Generation
& Distribution Corporation,
NPKRR Maligai, 1st Floor,
144, Anna Salai, Chennai - 2. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to include the petitioner's name in the panel for promotion to the post of Internal Audit Officer notified by the 1st respondent in his Proc.No.1 (Audit Branch) dated 10.11.14 in the appropriate place over and above his juniors.

For Petitioner : Ms.M.Srividhya
For Respondents : Ms.R.Varalakshmi

ORDER

The petitioner is working as an Assistant Audit Officer in the respondent Corporation. Unfortunately, the petitioner has some family dispute with his wife. He got married on 23.1.2004. He also filed a petition for divorce in H.M.O.P.No.121 of 2011 on the file of Principal Subordinate Judge's Court, Tiruchy. His wife also filed H.M.O.P.No.10 of 2007 for restitution of conjugal rights and the same was dismissed on 23.12.2010. While so, his wife has filed private complaint before the Jurisdictional Magistrate alleging that the petitioner got married while marriage with her was in subsistence. Based on the aforesaid private complaint, the grievance of the petitioner is that he is not included in the panel of Assistant Audit Officer fit for promotion to the post of Internal Audit Officer for the year 2014-2015 in Proceeding No.1, Audit Branch, dated 10.11.2014.

2. In view of the aforesaid proceedings initiated by his wife, the petitioner was placed under suspension on 1.8.2011. However, later the suspension was revoked and he was restored to duty from 23.1.2012. Thereafter, for the reasons best known to the respondents, no annual increment was sanctioned to the petitioner. In these circumstances, the petitioner made a representation dated 10.12.2014 to the respondents to include his name in the panel for promotion to the post of Internal Audit Officer for the year 2014-2015. As no orders were passed, the petitioner has

filed the present writ petition. He has also prayed for an interim direction to grant him annual increment with effect from 1.4.2012 onwards.

3. At the time of hearing of the writ petition, learned counsel appearing for the petitioner has prayed for disposal of the representation of the petitioner dated 10.12.2014.

4. I have heard the learned counsel for the petitioner.

5. I am of the view that if there is only some family dispute between the petitioner and his wife relating to their marriage, the same cannot be put against the petitioner for promotion. Even if a private complaint for bigamy is pending I am of the view that the same cannot be put against the petitioner. It is a different matter if allegation is made by the wife that the petitioner assaulted her and a criminal case is pending under Section 326 of IPC or a F.I.R is registered under Section 307 IPC. Therefore, I am of the view that the employee cannot be deprived of promotion on the ground that there is some family quarrel between the employee and his wife. The same can be taken note of while deciding the representation of the petitioner dated 10.12.2014. Further, once the petitioner was restored to duty he has to earn the increments automatically. Therefore, there is no reason for the respondents in not granting the annual increments to the petitioner. The annual increments

could be declined only when there is a punishment that would be operating against him. It is not so. Hence, I am of the view that the respondents shall also sanction the increments to which the petitioner is entitled to. The 2nd respondent is directed to dispose of the representation dated 10.12.2014 in the light of the observations made above and a further direction is issued to the respondents to pay the annual increments in the light of the observation made above within a period of eight weeks from the date of receipt of copy of this order.

6. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

19.12.2014

Index : Yes

Internet : Yes

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To

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Tamilnadu Generation & Distribution
Head Quarters
Complex, 144, Anna Salai,
Chennai - 2
2. The Chief Internal Audit Officer,
Audit Branch, Tamilnadu Generation
& Distribution Corporation,
NPKRR Maligai, 1st Floor,
144, Anna Salai, Chennai - 2.

D.HARIPARANTHAMAN, J.

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