
(1977) 01 MAD CK 0035
In the Madras High Court

T.B. Venkatachalam and Others

APPELLANT

Vs

Tamil Nadu Electricity Board

RESPONDENT

Date of Decision : 20-01-1977

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1978) 1 LLJ 99

Hon'ble Judges : A.D. Koshal, J

Bench : Single Bench

Judgement

A.D. Koshal, J.—By this judgment I shall dispose of two petitions under Article 226 of the Constitution of India, namely, Writ Petitions Nos. 2557 and 2558 of 1972, in each of which the petitioner is an Assistant employed by the Tamil Nadu Electricity Board (hereinafter referred to as the Board) which is the sole respondent before me. On the 16th November, 1968 both the petitioners were members of the Tamil Nadu Electricity Worker's Federation (hereinafter referred to as Federation) which, on that date, entered into a settlement to which the other parties were the Board and an organisation known as the Tamil Nadu Electricity Board Accounts Subordinates Union (for short, the Union). The settlement stipulated inter alia that an employee holding a post lower than that of an Assistant in a particular circle would be posted on promotion as Assistant within the same circle provided that a post was available for him therein after his seniors had been accommodated. The two petitioners were promoted as Assistants on the 24th of June, 1972 and were posted as such to the Tirunelveli Generation Circle in which they were working as Junior Assistants immediately preceding their promotion. On the 14th of September, 1972, however, they were transferred to another Circle by an order of the Chief Engineer (Electricity) of the Board and it is that order which the petitioners challenge with a prayer that it be quashed by a writ of certiorari, being contrary to the settlement abovementioned.

2. It is admitted on all hands that the settlement is still in force. Its contravention is sought to be justified on behalf of the Board, however, on the

plea that after it had been arrived at, the union made a request to the Board to enlarge the field of posting of Assistants so that a junior Assistant working in one circle could be posted on promotion as Assistant to that circle or to any of two other circles and that request was accepted by the Board. The plea, even if it is factually correct, is no answer to the petitioners' case because the petitioners have never been members of the union and the union does not have any right to make a request which, when accepted by the Board, would amend the settlement so as to adversely affect the interests of employees of the Board who are not members of the union. Learned Counsel for the Board has failed to cite any law under which the settlement could be amended so as to bind the Federation when the Federation was not a party to the amendment. As between the Board and the Federation, therefore, settlement is fully binding in its original form according to which the petitioners are not transferable to a Circle other than the one in which they were working as Junior Assistants at the time of their promotion as Assistants subject to the condition that they can be accommodated therein without displacing any of their seniors--a condition which admittedly they satisfy.

3. In the result the petitions succeed and are accepted and the Board's order is quashed. The petitioners will have their costs of these proceedings. Counsel's fee Rs. 100 in each petition.