

Common Designation
(Extracts of Judgement)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2011

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P. No.3211 of 2002

The Management of Tamil Nadu
Electricity Board, rep. by its
Secretary, 800, Anna Salai,
Chennai-600 002.

... Petitioner

Vs

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
7. The General Secretary, TNEB Engineers' Sangam,
(Regd. No.124/MDS), 793, Electricity Avenue,
Anna Salai, Madras – 2.

... Respondents

.....,

5. In respect of Point No.2, the learned counsel appearing for the petitioner management submitted that the Industrial Tribunal has substituted its own findings in the place of the employer by creating one cadre by merging two posts, which is beyond the power of Labour Court. There are two posts available in the petitioner Electricity Board, carrying same pay, power and status, viz., Junior Engineer (Grade-I) and Assistant Engineer. The post of Junior Engineer is occupied by the Diploma holder whereas the post of Assistant Engineer is occupied. It was further contended that qualification to become a Junior Engineer (Grade-I) is a Diploma while degree holders are appointed to the post of Assistant Engineer. Though both the posts carry the same pay and duties and the ratio for promotion a person from Junior Engineer (Grade-I) cadre and Assistant Engineer is fixed at 3:1, hence, there is no need for merging the posts into one by creating a common nomenclature. While replying to the said contention, Mr.R.Yasod Vardhan, learned Senior Counsel appearing for the 7th respondent emphatically replied to the said question making it clear that the Learned Industrial Tribunal has got ample power for creating a common nomenclature by merging two posts viz., Junior Engineer Grade-I and Assistant

Engineer after re-designating Junior Engineer (Grade-I) as Assistant Engineer (D) and Assistant Engineer (G). By drawing the notice of this Court to Section 7A of the Industrial Disputes Act, 1947, and the Third Schedule, it was argued that under the jurisdiction of the Industrial Tribunal, several matters, namely disputes in respect of the wages, including the period and mode of payment, classification by grades, have been brought for resolution, hence, the Industrial Tribunal has got ample power to create common nomenclature. Under these circumstances, it is relevant to refer the Third Schedule of the Act, which is extracted as under:

THE THIRD SCHEDULE

MATTERS WITHIN THE JURISDICTION OF INDUSTRIAL TRIBUNALS:

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit-sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed;

A mere reading of the above third schedule shows that the Industrial Tribunal has got the jurisdiction to entertain any dispute relating to classification of any grades. Learned Industrial Tribunal, while exercising its jurisdiction, after nothing the pay, power and status of both the Junior Engineer (Grade-I) and Assistant Engineer are one and the same and both the posts carry equal remuneration with equal dearness allowance and other perquisites **came to the conclusion that there is no bar creating the common nomenclature, by calling the Junior Engineer (Grade-I) as Assistant Engineer (Diploma) and for the rest of the Graduate Engineers, the same can be called as Assistant Engineer (G). Therefore, when the Tribunal has got ample power, I do not find any reason to interfere with the merging done by the Tribunal, so as to create a common nomenclature and therefore, the said possible common nomenclature cannot be found fault with. Accordingly, the Point No.2, as rightly held by the learned Tribunal, also does not warrant any interference.**

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// True copy //

Sd/-
Assistant Registrar.

Sd/- 15.11.2011
Sub Asst. Registrar.