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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11626 OF 2014

The Maharashtra Navnirman Vij Kamgar Sena	..Petitioner.
Vs.	
The Maharashtra State Electricity Transmission Company & Ors.	..Respondents.

Mr. R.N. Gite for Petitioner.
Mr. P.P. Kakade, AGP for Respondent-State.
Mr. Nirav Shah i/b Little & Co., for Respondent No.2.

**CORAM: NARESH H. PATIL &
A.S. GADKARI, JJ.**

DATE : 20th February 2015.

P.C.

1 The learned Counsel appearing for the Petitioner submits that in view of the Circular No.109 dated 20th August 2008, the Senior Operators are required to be considered for promotion in accordance with list annexed to the Petition (Page-13) in the 10% departmental promotion quota. The learned Counsel submits that the Respondents by another Circular No.352 dated 5th January 2013, revived the policy. He further submits that the three employees from the said 10% quota were promoted. The Petitioner seeks direction to Respondents to promote employees as

Junior Engineer by quashing a Circular No.352 dated 5th January 2013.

2 The Respondent No.2 filed an affidavit-in-reply. The learned Counsel for the Respondent No.2 relies upon the paragraphs-24, 25(a) and 27 of the said affidavit. The said paragraphs read as under:

“24. The Board of Directors of MSEB Holding Company have also authorized the MD, MSEB Holding Company to make any modifications/changes to the above pre-requisites/ issue clarification, if required in consultation with M.D. Of the concerned Company. However, the Board directed that there shall be uniformity in any amendment/modification issued hereinafter.

25(a). Consequently, the pre-requisites and method of filling in vacancies of posts in Technical Cadre mentioned in Schedule A-I of the MSEB Classification and Recruitment Regulations, 1961 and all provisions/ Circulars regarding upper age limit, pre-requisites and method of filling in vacancies of the posts in Technical Cadre issued previously shall stand superseded to the above extent.

27. As stated above, as per the method of filling in the post of Senior Operator the post of Senior Operators are filled in by the respondent Company. No employer shows any hopes of future eventualities to any new appointees. The respondent company has also never shown any hopes or given any assurance of future promotions to any of the appointees to the post of Senior Operator.”

3 The Company is involved in distribution of electricity. The Company appointed High Power Committee to review the policy decision in respect of maintaining the departmental promotional quota. It is submitted that the appropriate decision was taken in accordance with MSEB Classification and Recruitment Regulations, 1961. The Company by superseding the earlier Circular, issued a fresh Circular in the year 2013. The learned Counsel for the Respondents submits that the issue of 10% departmental promotion quota was also referred before the Review Committee. The learned Counsel for the Respondent No.2 further relied upon the paragraphs-34 and 36 of the affidavit-in-reply, which read as under:

“34. Since the post of the sub engineer are sanctioned on the 66 kv substation and that the MSETCL company does not have 66 kv substations, as they have been entrusted with the MSEDCL i.e. the distribution company the posts have become redundant in the transmission company hence they were abolished in about 2010 and not recreated.

36. Thus, in pursuance of Existing rules & regulation prescribed under Administrative Circular No.352 dtd. 05.01.2013 there is no provision for departmental promotion of diploma holder Senior Operator to the post of Junior Engineer. In view of above, the petition is not tenable”.

4 We have perused the record and the reply filed by Respondent-Company. In the facts the Review Committee took decision to suit the policy adopted by the Company regarding promoting its employees.

5 We were not persuaded to accept the contention raised on behalf the Petitioner that the decision reached by the Review Committee was against the express provisions of law or highly arbitrary in nature.

6 We are not inclined to exercise the extra ordinary writ jurisdiction under Article 226 of the Constitution of India to entertain this Writ Petition. The Writ Petition is dismissed.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)