

In the High Court of Judicature at Madras

Reserved on: 21.12.2014

Dated 5.01.2015

Coram

The Honourable Mr.JUSTICE M.M.SUNDRESH

Writ Petition No.20150 of 2014

& M.P.No. 1 of 2014

- 1 S.T.Chandramohan
- 2 R.Kandasamy
- 3 N.Latha
- 4 P.Eswaran
- 5 D.Ramalingam
- 6 S.Sivakumar
- 7 P.Chakkaravarthy
- 8 K.Balasubramaniam
- 9 P.Suresh
- 10 M.Sivakumar
- 11 K.Venkatachalam
- 12 R.Selvakumar
- 13 J.Shanmugasundaram
- 14 V.Chandra
- 15 R.Prem Anandhan
- 16 K.Murugesan
- 17 P.Rajamani
- 18 M.Jaya
- 19 N.Sivakumar
- 20 Manonmani
- 21 K.Ilango
- 22 P.Thamilselvi
- 23 R.Subathira
- 24 G.Vasudevan
- 25 A.Sivakumar
- 26 A.Nehru Mottur
- 27 R.Ravi
- 28 M.Subramanian
- 29 A.Jayamurugan
- 30 K.Manickam
- 31 K.Mahalingam
- 32 S.Arulmozhi
- 33 S.Saravanan
- 34 K.Kaliyan
- 35 K.Raghuraj
- 36 K.Mani
- 37 D.Nagarajan

38 K.Kannan
39 K.Ayothi
40 G.Sathiya
41 B.Balaji

.... Petitioners

Vs.

Tamil Nadu Generation and Distribution
Corporation Limited, rep. by its
Chief Engineer/Personnel,
Head Quarters No.144, Anna Salai,
Chennai 0 600 002.

.... Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus to direct the respondent to select candidates for the posts of Technical Assistants in TNEB only in the order of seniority in apprenticeship training under the Apprentices Act at Tamil Nadu Electricity Board in the designated subject field of Electrical Engineering subject to candidates possessing Diploma in Electrical and Electronic Engineering.

For Petitioners: Ms.Nalini Chidambaram

Senior Counsel for Ms.C.Uma

For Respondents : Mr.A.L.Somayaji, Advocate General,
Assisted by Ms.R.Varalakshmi

ORDER

The petitioners herein passed Diploma in Electrical and Electronic Engineering between the years 1989 to 1991. They underwent one year apprentice ship in Tamil Nadu Electricity Board. The Supreme Court in U.P.State Road Transport Corporation and another Vs. U.P.Parivahan Nigam Shighukha Burosgar Sangh and Others, ((1995) 2 SCC 1) was pleased to pass the following order with respect to the entitlement of the Apprentice Trainees.

"12. In the background of what has been noted above we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training;

(1) Other things being equal a trained apprentice should be given preference over direct recruits.

(2) For this a trainee would not be required to

<https://hcservices.ecourts.gov.in/hcservices> his name sponsored by any employment exchange. The

decision of this Court in Union of India Vs. N.Hargopal would permit this

(3) If age bar would come in the way if the trainee the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.

(4) The training institute concerned would maintain a list of the persons trained year-wise. The persons trained earlier would be treated as senior to the persons trained later. In between the trained apprentices, preference shall be given to those who are senior."

2. Following the said decision, in a subsequent decision in Civil Appeal No.5285-5328 of 1996 dated 3.10.1996 was pleased to hold that in view of the decision referred supra in U.P.State Road Transport Case, all the instructions of the Central Government or the State Government are to be read in conformity with the same. In accordance with the decision rendered by the Supreme Court in which the respondent is a party, a Government Order was passed in G.O.(Ms.) NO.116, Labour and Employment Department dated 24.09.2008 by which a list will have to be prepared in respect of trainees year-wise. Those who have got training in the previous year will have to be treated as Senior in training and such of those persons who got training earlier will have to be given preference.

3. A notification was issued by the respondent calling to fill up about 1000 posts. As per the said notification dated 27.5.2013, all those persons with diploma in Electrical and Electronic Engineering and completed one year of apprenticeship training are required to register their details with the respondent. The petitioners along with the others got themselves registered. By a subsequent notification, all those persons, who have registered themselves being the trainees with the qualification in Diploma in Electrical and Electrical Engineering were called for interview. Unfortunately the petitioners have not been selected. Seeking a writ of mandamus directing the respondent to select the petitioners by following the order of seniority in apprenticeship training, the present writ petition has been filed.

4. Learned Senior Counsel appearing for the petitioners submitted that the order passed by the Supreme Court in Civil Appeal Nos.5285-5328 of 1996 dated 3.10.1996 will have to be followed in letter and spirit. The Government Order, being in consonance with the said order, the petitioner will have to be given preference based upon their prior completion of the training. Therefore the writ petition as filed will have to be allowed by directing the respondent to invoke the said process.

5. Learned Advocate General appearing for the respondents submitted that the petitioners do not have a vested right to seek postings. The preference would come when other things being equal. The Supreme Court merely dispensed with the written examination and not the interview. A mere training will not give any legal right to a post. The petitioners have totally misconstrued the Government Order in Government Order passed in G.O.Ms.No.116 Labour and Employment Department dated 24.9.2008. Having participated in the selection process the petitioners cannot contend to the contra. The writ petition is not maintainable without seeking to challenge the selection made already and without impleading the said candidates. Therefore no interference is required.

6. Admittedly the petitioners have not sought for quashing the selection made. The selected candidates have acquired substantial rights in pursuant to their selection. Therefore, a writ of mandamus, as rightly submitted by the learned Advocate General would not lie.

7. Coming to the merits of the case, the decision of the Supreme Court referred supra does not say that merely based upon the seniority in the completion of training, appointment should be made. In other words, the judgment will have to be construed to hold that when other things being equal the seniority would come into play. If the contention of the learned Senior Counsel for the petitioner is accepted, merely by completion of training, a candidate would acquire a right notwithstanding the inert se merit. The selection will have to be based upon merit. The petitioners having participated in the selection cannot contend to the contrary. The Government Order relied upon by the petitioners does not contemplate a situation that the appointments will have to be made strictly by seniority. The petitioners were not selected because they have not fared well in the interview. While they were made not to go through the written examination, they cannot be given posting notwithstanding the fact that they have fared relatively worse than the selected candidates. Considering the same, this Court is of the view that the writ petition is liable to be dismissed.

8. Accordingly the writ petition is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

Tamil Nadu Generation and Distribution
Corporation Limited, rep.by its
Chief Engineer/Personnel,
Head Quarters No.144, Anna Salai,
Chennai 600 002.

1 cc to Ms.C. Uma, Advocate, SR. 55

W.P.No.20150 of 2014

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