

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.2.2015.

CORAM

THE HON'BLE MR.JUSTICE V.DHANAPALAN
AND
THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

W.A.No.621 of 2011
and
M.P.No.1 of 2011

S.Jeyaraj ... Appellant/3rd Party

vs.

1. C.S.Sri Shankar ... 1st Respondent/Petitioner
2. The Tamil Nadu Electricity Board,
rep by its Chairman,
No.800, Anna Salai, Chennai-2.
3. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-2.
4. The Superintending Engineer,
Chennai Development Circle II,
Tamil Nadu Electricity Board,
Chennai 600 032.
5. G.Selvaraj
6. N.Thanikasalam
7. S.Jayakumar
8. G.Parthasarathy
9. P.K.Mohammed Bashir
10. R.Kannan
11. J.Kumar
12. Gopinath Barathy
13. K.Sundararajan
14. K.Manjula
15. R.Mohan Babu ... Respondents/Respondents
2 to 15.

Writ Appeal against the order dated 14.7.2010 in W.P.No.23106 of 2009 on the file of this court.

W.P.No.23106 of 2009:

This Petition to issue a Writ of Mandamus, directing the second respondent to prepare the panel for promotion to the post of Accounts Supervisor strictly on the basis of merit and ability as per Regulations 98 (i) (b) of the TNEB Service Regulations and on the basis of the existing regulation of qualification criteria of passing of Accountancy Test lower grade as per 96 (i) (b) of the Tamil Nadu Electricity Board Regulations and to promote the qualified persons including the petitioner as Accounts Supervisor, as on 20.03.2009 the suitability called for by the second respondent in letter No.064906/203/G.29/G292/2006-1 dated 13.10.2009, before promoting the unqualified persons.

For appellant : Mr.P.Jagadeesan

For RR 2 to 4 : Mrs.R.Varalakshmi,
Standing Counsel for EB

JUDGMENT

(Order of the Court was delivered by V.DHANAPALAN, J)

The writ appeal is filed by a third party aggrieved against the order passed by this court in a writ petition filed by the first respondent herein.

2. The first respondent herein filed the main writ petition seeking a direction to prepare promotional panel to the post of Accounts Supervisor strictly on the basis of merit and ability as per Regulations 98(8)(b) of the Tamil Nadu Electricity Board Service Regulations and on the basis of the existing regulation of qualification criteria of passing of Accountancy Test Lower Grade as per 96(i)(b) of the Tamil Nadu Electricity Board Regulations and to promote the qualified persons including the first respondent herein as Accounts Supervisor, as on 20.3.2009 before promoting the unqualified persons wherein the learned Single Judge has directed respondents 2 to 4 herein to fill up the existing vacancies from and among the Assistants (Accounts) qualified for promotion as Accounts Supervisor as on 30.6.2010 by drawing a promotional panel and fill up the existing vacancies from and among such qualified Assistants (Accounts) and thereafter to consider the upgradation of unqualified Assistants (Accounts) in the manner as directed in the order dated 4.3.2008 made in Writ Appeal No.1613 of 2007 and 179 of 2008 by the Division Bench of this Court.

3. When this appeal is taken up for hearing, counsel appearing for either side produced a copy of the Judgment of the First Bench and submitted that the question in issue raised in this appeal is covered by the judgment dated 8.1.2015 in W.A.Nos.483 of 2013 and 2550 of 2010.

4. The judgment in the said appeals reads as follows:-

"The matter in issue relates to promotion to the post of Accounts Supervisor from the post of Assistant (Accounts) in the TamilNadu Electricity Board. The Accountancy Lower Grade Test is required to be cleared as a pre-requisite for the promotion, to be so promoted as Accounts Supervisor. What the appellant before us seeks is to get promotion without clearing the test, as some of them have failed to clear that test.

2.The only plea is that there should be some avenue of promotion and they have been approaching the Court in different judicial proceedings referred to in the impugned order of the learned Single Judge, where directions have been passed from time to time qua the persons, who are ineligible as per the required rule for promotion.

3.It is pointed out by the learned counsel for the respondent/Board that the matter qua this was being negotiated with the Unions and post 2010, there has been no finalisation qua this aspect.

4.We are quite clear in our views that this Court cannot issue a direction for promotion if qualifications are not met. The only aspect which emerges from the earlier orders passed is that the respondent/ Board should examine the issue whether there can be some avenue of promotion / upgradation even for persons who have not so qualified the test.

5.In respect of the aforesaid, learned counsel for the respondent / Board states that a final call will be taken in the matter within a maximum period of two (2) months from today. The said statement is taken on record.

6.The other limb of the submission made by the learned counsel for the appellant is that there have been discussions about the non-necessity of having the requirement of clearing this test, as for other posts, the said test has been waived. Whether this test ought to be waived or not for the promotion in question is purely within the administrative domain of the respondent / Board. However, a decision must be taken

one way or the other in this behalf, for which learned counsel for the respondent / Board seeks three (3) months time. The said statement is taken on record.

7.The Writ Appeals are disposed of with the direction to the respondent / Board to take a decision in both the aforesaid aspects within the time sought for by them. No costs. Consequently, connected miscellaneous petitions are closed."

5. In view of the above, this appeal is disposed of in terms of the above judgment. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Chairman,
The Tamil Nadu Electricity Board,
No.800, Anna Salai, Chennai-2.
2. The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
No.800, Anna Salai,
Chennai-2.
3. The Superintending Engineer,
Chennai Development Circle II,
Tamil Nadu Electricity Board,
Chennai 600 032.

+1cc to Ms.P.Varalakshmi, Advocate, S.R.No.10397
+1cc to Mr.P.Jagadeesan, Advocate, S.R.No.9676

JSV(CO)
CA(18/03/2015)

W.A.No.621 of 2011