

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.A.Nos.483 of 2013 and 2550 of 2010
and M.P.Nos.1 of 2013 & 1 of 2014
and 1 of 2010

S.R.Sivakumaran .. Appellant in
both WAs.

-vs-

1.Tamil Nadu Electricity Board
Rep. By its Chairman,
800, Anna Salai, Chennai 2.

2.The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.

.. Respondents in
WA.483/2013

1.C.S.Sri Shankar

2.Tamil Nadu Electricity Board
Rep. By its Chairman,
800, Anna Salai, Chennai 2.

3.The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.

4.The Superintending Engineer,
Chennai Development Circle - II,
Tamil Nadu Electricity Board,
Chennai 2.

5.G.Selvaraj
6.N.Thanikasalam
7.S.Jayakumar
8.G.Parthasarathy
9.P.K.Mohamed Bashir
10.R.Kannan
11.J.Kumar

12.Gopinath Barathy
13.K.Sundararajan
14.K.Manjula
15.R.Mohan Babu

.. Respondents in
WA.2550/2010

Appeals filed under Clause 15 of the Letters Patent, against the order dated 09.11.2012 passed in W.P.No.25736 of 2009 and the order dated 14.07.2010 passed in W.P.No.23106 of 2009 respectively on the file of this Court.

WP.No.25736 of 2009:

Writ petition filed under Article 226 of the Constitution of India praying this Honourable Court to issue a writ of certiorarified mandamus, calling for the records relating to the Communication bearing Lr.No.064906/203/G.29/ G.292/2006-1 dt.13.10.09 on the file of the 2nd respondent and quash the same and consequently to direct the respondents 1 & 2 to prepare a Panel of eligible Assistant (Accounts) for upgradation to the post of Accounts Supervisor irrespective of whether those Assistants (Accounts) have passed the Accountancy Lower Grade Examination as contemplated under Regulation No.96(1)(b) of the TNEB Service Regulations i.e. in compliance with the directions issued by this Hon'ble Court in the Common Order dt.19.12.07 made in W.P.No.37443 of 2005 and the Common Judgment dated 04.03.2008 made in W.A.No.1613 of 2007.

WP.No.23106 of 2009:

Writ Petition filed under Article 226 of the Constitution of India praying to issue 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 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.T.P.Manoharan

For Respondents : Mrs.R.Varalakshmi

for RR 1 & 2 in WA.483 of 2013 and
for RR2 to 4 in WA.2550 of 2010

: Mr.S.N.Ravichandran

for R-1 in WA.2550 of 2010

: Mr.B.Manokaran

for RR 5, 6, 11, 12&13 in WA.2550/2010

: No appearance for RR 7 to 10, 14 & 15.

* * * * *

COMMON JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

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.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sra

To

1. The Chairman,
Tamil Nadu Electricity Board
800, Anna Salai, Chennai 2.
- 2.The Chief Engineer (Personnel)
Tamil Nadu Electricity Board,
800, Anna Salai, Chennai 2.
- 3.The Superintending Engineer,
Chennai Development Circle - II,
Tamil Nadu Electricity Board,
Chennai 2.

+1cc to Mr.T.P.Manoharan, Advocate SR.No.1424

+1cc to Mr.G.Bala & Daisy, Advocate SR.No.1039

+1cc to Ms.R.Varalakshmi, Advocate SR.No.1867

+1cc to Mr.S.N.Ravichandran, Advocate SR.No.1867

+1cc to Mr.B.Manoharan, Advocate SR.No.1867

W.A.Nos.483 of 2013
and 2550 of 2010

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