

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

WP.Nos.9249 & 9250/2012 MP.No.1 & 1/2013
& 17390 & 17391/2012 & 34021/2013

K.Soundararajan ...Petitioner in W.P.No.9249/2012
P.Kumaresan
...Petitioner in W.P.No.9250/2012.

K.R.Sivakumar ...Petitioner in W.P.No.17390/2012

J.Narayanasamy ...Petitioner in W.P.No.17391/2012

S.Sreekumar ...Petitioner in W.P.No.34021/2013

-Vs-

1.The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai-600 002. ...1st Respondent in W.Ps 9249, 9250,
17390 & 17391/12

2.The Chief Engineer, Personnel,
Tami Nadu Electricity Generation and Distribution Corporation,
(Previously Known as Tamilnadu Electricity Board)
No.144, Anna Salai,
Chennai-600 002.

... 2nd Respondent in all WP's

3.The Chairman-Cum- Managing Director,
TamilNadu Generation and Distribution Corporation,
No.144, Anna Salai,
Chennai 600 002.1st Respondent in W.P.No.34021/13

COMMON PRAYER in W.P.Nos. 9249,9250/2012 & 17390,17391/2012 :

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to appoint the petitioners to the post of Helper by giving preference to the apprenticeship those who have joined apprenticeship prior to 13.09.88 as per the orders dated

11.12.09 and 07.12.10 passed by this Hon'ble Court in W.P.Nos.4218 & 4219 of 2009 and W.P.Nos.3605/2000 & 5757/2010 respectively by considering the petitioner's representation dated 04.01.2012.

PRAYER IN W.P.No.34021/2013 :-

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to appoint the petitioner to the post of Helper in the Tamil Nadu Electricity Generation and Distribution Corporation Ltd., by giving preference to the apprenticeship those who have joined apprenticeship prior to 13.09.88 as per the orders dated 11.12.09 and 07.12.10 and 18.04.12 passed by this Hon'ble Court and the Hon'ble Madurai Bench of this Hon'ble Court in W.P.Nos.4218 & 4219 of 2009 and W.P.Nos.3605 & 5757 of 2000 and W.P.(MD) Nos.5109 of 2012 etc batch respectively.

For Petitioners in : Mr.G.Ananda Kumar
W.P.Nos.9249 & 9250/2012,
W.P.Nos.17390 & 17391/2012
and W.P.No.34021/2013)

For Respondents in
W.P.Nos.9249 & 9250/2012
and W.P.No.34021/2013 : Mr.M.Fakkir Mohideen

For Respondents in
W.P.Nos.17390&17391/2012 : Mr.P.R.Dhilip Kumar

COMMON ORDER

The petitioners who have completed ITI course in Trade of Wireman and the Apprenticeship Training for a period of one year, claim benefit of B.P.Ms.(Ch)No.242(SB), dated 26.06.1984. In this connection, similarly placed persons like that of the petitioners' had earlier filed W.P.Nos.4218 & 4219 of 2009 etc., seeking for appointment to the post of Helper by giving preference to them, in view of the apprenticeship taken by them prior to 13.09.1988. These writ petitions were allowed and the Writ Appeal Nos.1596 & 1597 of 2010 preferred by the Board were dismissed. The same has been confirmed by the Hon'ble Supreme Court in SLP(Civil) CC Nos.10211 and 10212 of 2011 on 12.08.2013. The facts in Writ Appeal Nos. 1596 and 1597 of 2010 ; 1596 & 1597 of 2010, squarely applies to the petitioners' cases also. The relevant portion of the said judgments reads as follows:

24 "1.The claim of the respondents is that in terms of BP 242 dated 26.06.1984, the trained apprentices enjoy a preference in the matter of employment with the appellant Board under whom they underwent the apprenticeship training and such training was given to them under the provisions of the Apprenticeship Act 1956."

2.Since the Appellant Board acted in contravention to the terms of the Board proceedings, several such similarly placed persons as that of the respondent/writ petitioners therein approached this Court by filing writ petitions challenging BPMs (FB) No.60 dated 13.09.1988 in and by which, the appellant Board decided to discontinue the procedure of giving preference to candidates who have completed the Apprenticeship Training in the Board. This Court allowed the Writ Petition in W.P.No.11807 of 1988, by an order dated 15.11.1988 reported in 1989 (1) L.L.L.Page 105 [DHARMARAJA Vs. TAMIL NADU ELECTRICITY BOARD & ANOTHER.]

3.It appears that the Judgment rendered in that Writ Petition by a learned Single Judge of this Court attained finality. Thereafter, the Board has also implemented the directions given and persons who were similarly placed as that of the respondents/writ petitioners therein, were absorbed. Subsequently several other cases were also disposed of on the same line, which has been dealt with by the learned single Judge while disposing of WP.No.4218/2009 [V.PALANIMUTHU Vs. THE CHAIRMAN, TAMIL NADU ELECTRICITY BOARD, NO.144, ANNA SALAI, CHENNAI-2 AND OTHERS]. For better appreciation, paragraph Nos.6, 7 & 8 are extracted hereunder:

"6. In fact, the assurance given in B.P.Ms.(CH) No.242 was later withdrawn in B.P.(FB)No.69, Secretariat Branch, dated 13.09.1988. Therefore, the apprentices, who were trained after 13.09.1988, are not entitled to preference in employment in the respondent-Board. Therefore, the crucial date was 13.09.1988, and the apprentices who were trained by the respondent-Board before the crucial date, are entitled to preference in employment, as per B.P.Ms.(Ch)O No.242 referred to above.

7.When the Board refused to give preference in employment to apprentices trained before 13.09.1988, as per the promise made in B.P.Ms.(Ch)No.242, the apprentices, who were similarly situated as petitioners, filed series of writ petitions in various

batches claiming employment. One such writ petition was disposed as early as on 01.09.1992 in W.P.No.590 of 1992 (M.VASU AND OTHERS .Vs. THE TAMIL NADU ELECTRICITY BOARD REP. BY ITS CHARMAN, ANNA SALAI, MADRAS -2 AND ANOTHER) and this Court directed the respondent-Board to give preference in employment to the apprentices, who were trained before 13.09.1988. Based on the order of this Court, those persons were given employment by the respondent-Board. The petitioner and 8 others filed writ petition in W.P.No.19743 of 1994 and this Court directed the respondents to give preference in employment following the earlier order dated 01.09.1992 in W.P.No.590 of 1992. In fact, this Court considered the B.P.Ms.(Ch) No.242 and Section 22 of the Apprentices Act on 15.11.1988 in W.P.No.11807 of 1998 reported in 1989 (1) LLN 105 (DHARMARAJA AND OTHERS .Vs. TAMIL NADU ELECTRICITY BOARD (BY ITS CHAIRMAN) AND ANOTHER) in a well considered judgment and directed the respondent-Board to give preference in employment to apprentices trained before 13.09.1988 as per B.P.Ms.(Ch) No.242.

8.The apprentices who were similarly situated like the petitioner, filed writ petition in W.P.No.11158 of 1994 claiming appointment as per B.P.Ms.(ch) No.242. This Court, following the earlier decision dated 01.09.1992 in W.P.No.590 of 1992 referred to above, passed an order dated 21.07.1994 in W.P.No.11158 of 1994, directing the respondent-Board to give preference in employment, as those persons completed apprenticeship training before the crucial date i.e. 13.09.1988".

4.Similarly, the Hon'ble First Bench of this Court in WA.Nos.1596 and 1597/2010 [THE CHAIRMAN, TAMIL NADU ELECTRICITY BOARD, ANNA SALAI, CHENNAI-2 AND ANOTHER Vs. D.VENKATESAN AND ANOTHER] has held as follows:-

"11.Further, it is seen that the respondents completed their apprenticeship training trained apprentice before the crucial date i.e. 13.09.1998 and there is no reasonable explanation offered by the appellant Board as to why they were not given employment despite

several thousands of workmen have been appointed after the cut off date and that too appointments have also been periodically made apart from absorption of 18,000 contract workers pursuant to recommendations by Hon'ble Justice Khalid Commission. Therefore, we are of the firm view that at this stage of the matter, the appellant Board can not adopt a different yardstick to the case of the respondents who have completed the apprenticeship prior to 13.09.1988, which is the crucial date.

5. Since the petitioners herein are similarly placed to that of the respondents/writ petitioners in W.A.Nos.1596 and 1597/2010. The present writ petitions is also liable to be disposed of on the same lines.

6. Accordingly there shall be a direction to the second respondent herein to appoint the petitioners to the post of Helper by giving preference to the Apprenticeship undergone by them prior to the 13.09.1988, in the light of the orders passed by this Court in W.P.Nos.4218 and 4219 of 2009 and W.A.No.s1596 & 1597 of 2010. It is made clear that the said direction shall be complied with by the 2nd respondent within a period of twelve weeks from the date receipt of a copy of this order.

7. With the above direction, the writ petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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KP
To

1. The Chairman,
Tamil Nadu Electricity Board,
No.144, Anna Salai, Chennai-600 002.

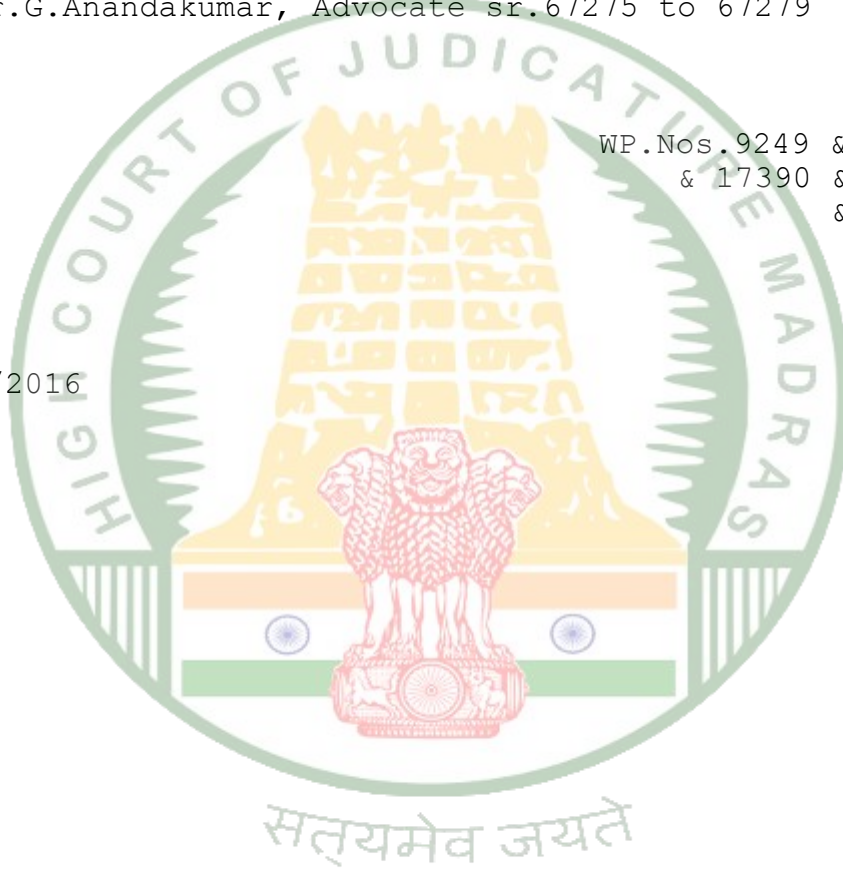
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Tami Nadu Electricity Generation and Distribution Corporation,
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No.144, Anna Salai, Chennai-600 002.

3.The Chairman-Cum- Managing Director,
TamilNadu Generation and Distribution Corporation,
No.144, Anna Salai, Chennai 600 002.

+5cc to Mr.G.Anandakumar, Advocate sr.67275 to 67279

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