

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.12.2016
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.9583 of 2016
and
WMP.No.8621 of 2016

N.Chitradevi

... Petitioner

Vs.

1. Tamil Nadu Generation and Distribution Corporation
Rep. by its Chairman and Managing Director
No.144, Anna Salai, Chennai-2.
2. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation
No.144, Anna Salai, Chennai-2.
3. The Chief Engineer
Coimbatore Region
Tamil Nadu Generation and Distribution Corporation
TATABAD, Coimbatore.
4. The Superintending Engineer
Udumalai Electricity Distribution Circle / South,
Udumalai region, Udumalpet.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents take into account the service experience including one year service rendered as apprentice by the petitioner and also her service with effect from 23.07.2013 so as to render eligible with the cut off date namely as on 05.03.2014 for the purpose of internal selection by way of including the petitioner in the select list and consequential allotment orders viz. Memo No.017429/G.13/G.131/2016-I, dated 22.02.2016 for the post of Assistant Engineer.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents : Mr.P.R.Dhilipkumar

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner is a B.E. graduate and was appointed on compassionate ground as Field Assistant Trainee in the first respondent/Corporation in the place of her husband who was discharged on medical ground and subsequently died during October 2013. The petitioner had joined the service on 23.07.2013 and was posted as a Field Assistant Trainee on consolidated wages and she claims that she belongs to Backward Class Community. The petitioner would further state that as per the Memo dated 31.10.2014 issued by the fourth respondent, she was brought to the regular time scale of pay in the post of Field Assistant and commenced probation on 24.07.2014 and her probation was successfully declared on 03.02.2015. The petitioner states that the second respondent has issued notification calling for applications from internal recruitment for the post of Assistant Engineer vide Office U.O. Note No.044575/234/G.55/G.551/2015-1, dated 12.02.2016 from all cadres and the qualification prescribed for the candidates is either Diploma holders or B.E Degree holders and the cut off date fixed for internal selection in respect of Backward Class Community was on 05.03.2015. It is the claim of the petitioner that she being a B.E. Graduate (Electrical and Electronics) and is also a fully qualified candidate, has also applied for the said post and further, the respondents without properly considering the qualification and other credentials of the petitioner, had hurriedly issued selection and allotment orders vide Memo dated 22.02.2016, which included the name of Ms.Kalpana, the junior to the petitioner. The petitioner in this regard submitted a representation dated 02.03.2016 to the respondent praying for selection and appointment of her as Assistant Engineer and since it has not been considered, she has come forward with this writ petition.

3.Mr.K.Krishnamoorthy, learned counsel appearing for the petitioner would vehemently contend by drawing the attention of this Court to the Memo dated 22.03.2008 issued by the first respondent and would contend that as per said proceedings, seniority in the post of Helper/officer Helper may be assigned based on the date of joining duty as Helper [Trainee], Officer Helper [Trainee] though their services are regularised on satisfactory completion of three years of training and no separate joining report as such in the post of regular Helper / Officer Helper is necessary and in the light of the said Memo, the claim of the petitioner may be positively considered.

4.Per contra, the learned counsel appearing for the respondent drawn the attention to the counter affidavit of the second respondent would contend that the petitioner has joined duty as Field Assistant on 23.07.2013, commenced probation and completed the same on 03.02.2015 and would further submit that the Board Proceedings No.4 dated 16.11.2000 dated 16.11.2007, is applicable only for the purpose of calculation of pension and not for preparation of the merit list of the internal selection.

5.The learned counsel appearing for the respondent submitted that one Kalpana joined service and she also of backward community and she joined on 01.03.2014 and as such, she is senior to the petitioner herein and she has been selected as Assistant Engineer through internal selection. The learned counsel has also drawn the attention to paragraph 14 of the counter affidavit and would submit that as per the TNEB Service Regulation No.95[b], TANGEDCO has prepared the merit list of Assistant Engineer/Electrical by internal selection and as on date, there is no Field Assistant and the cut off date for regular appointment for the post of Assistant Engineer in respect of Backward Class Community is 06.03.2014. The date of the regular appointment of the petitioner was on 24.07.2014 and therefore, the claim of the petitioner has not been considered. The petitioner has been informed that in near future, her claim would be considered.

6.This court considered the rival submissions and also perused the materials placed before it.

7.A perusal of the counter affidavit filed by the second respondent would show that admittedly, Kalpana is senior to the petitioner as her date of regular appointment was on 01.03.2014 and in the light of the stand taken by the respondents in page 5 of the counter affidavit to the effect that the employees have been selected for appointment to the post of Assistant Engineer/Electrical by internal selection on 12.02.2016 itself and that there are no unfilled vacancies, the claim of the petitioner cannot be considered. Further, it is made clear that as and when future vacancy for the post of Assistant Engineer arises, the petitioner's claim shall be considered in accordance with law.

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8.In the result, the Writ Petition is dismissed with the above observation. Consequently, Interim order granted by this Court on 15.03.2016 in WMP.No.8621/2016 is vacated and miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mk/dp

To

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+1 cc to Mr.P.R.Dhilip kumar Advocate sr 72414
+1 cc to Mr.K.Krishnamoorthy Advocate sr 72701

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