

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.669 of 2017

J.Jalin Jaya Vagar .. Appellant

-vs-

1. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
NPKR Maligai
No.144, Anna Salai
Chennai 600 002
2. The Chief Engineer/Personnel
TANGEDCO
No.144, Anna Salai
Chennai 600 002 .. Respondents

Appeal under Clause 15 of the Letters Patent, against the order dated 09.01.2017 made in W.P.No.17742 of 2015. Praying call for records in No.027982/ 129/ G57/G571/ 2015-1 dated 8.5.2015 issued by the 2nd respondent to quash the same and direct the to appoint the petitioner in the post of Technical Assistant under the Ex-Serviceman Dependant quota.

For Appellant :: Mr.S.Sathia Chandran

For Respondents:: Mrs.R.Varalakshmi

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the parties.

2. Having regard to the competition amongst the candidates for preference in the selection process, on the claim of having been sponsored through the employment exchange or for undergoing the apprenticeship training in the same Department etc., by the impugned order passed in the writ petition filed by the appellant/writ petitioner, the learned single Judge, in paragraphs 9 & 10, has observed as follows:-

"9. I am unable to accept the contentions of the learned counsel for the petitioner for the simple reason that though the petitioner seeks for appointment on the ground of seniority in the Employment Exchange and under the dependent ex-serviceman quota, seniority is not the main criteria for selection of the candidates and only the marks secured by the candidates in their examination and interview were the basis for selection. Admittedly, the petitioner has not secured the required marks prescribed for selection of candidates under the BC dependent ex-serviceman quota, therefore, he has not been selected. That apart, candidates were selected based on the communal roster and not on the basis of seniority in the Employment Exchange.

10. The next contention of the petitioner that advertisement calling for interview for appointment to the said post was only with regard to certificate verification, but, later viva voce was conducted and marks were awarded which is contrary to the rules prescribed for selection, is also not sustainable for the reason that guidelines were issued to conduct a viva-voce in technical subjects and managerial skills and 15 marks were earmarked for being awarded to the candidates based on their performance in the interview. Therefore, the judgment relied on by the petitioner, in the case of (Hemani Malhotra Vs. Hight Court of Delhi) reported in (2008) 7 S.C.C. 11 for the proposition that the authority cannot either, during the selection process of the candidate or after the selection process, add an additional requirement/ qualification that the candidate should also secure minimum marks in the interview, is of no assistance. Though petitioner contended that he is a trained apprentice and he should be given preference by relying upon the decision of the Hon'ble Supreme Court in U.P.State Road Transport Corporation's case, the learned Standing Counsel distinguished the said judgment by rightly pointing out that the Hon'ble Supreme Court had held that apprentices have no right to be appointed in preference to other applicants. Therefore, I am not inclined to interfere with the order passed by the second respondent, which is impugned in this writ

petition. Accordingly, the Writ Petition is dismissed as being devoid of merits. No costs."

3. We do not find any illegality in the order passed by the learned single Judge, as the learned Judge has observed that the judgment relied upon by the appellant/writ petitioner in the case of Hemani Malhotra Vs. High Court of Delhi reported in (2008) 7 SCC 11 for the proposition that the authority cannot either during the selection process of the candidate or after the selection process add an additional requirement/qualification that the candidate should also secure minimum marks in the interview, is of no assistance. The learned Judge has also observed that the decision relied upon by the appellant/writ petitioner in U.P.State Road Transport Corporation case cannot be also applied to the facts and circumstances, as the Supreme Court has held that apprentices have no right to be appointed in preference to other candidates. Moreover, the seniority in the employment exchange does not give preference to the appellant against the other candidates who may be his juniors, as the selection has to be made on the basis of interview performance, the marks obtained by the candidates, etc. Further, the enrollment in the employment exchange is only for sponsorship of the candidates to the authority concerned and the intimation to the candidates in respect of the filling up of the post, during the process of selection. When once the appellant/writ petitioner is found to be less meritorious on merits, except that he has been given an opportunity to participate in the interview through the employment exchange, no other right for appointment or the seniority in the employment exchange will add to the benefit of the appellant. In that process, rightly the learned single Judge has rejected the claim of the appellant/writ petitioner. We do not find any illegality in the impugned order. Accordingly, the writ appeal stands dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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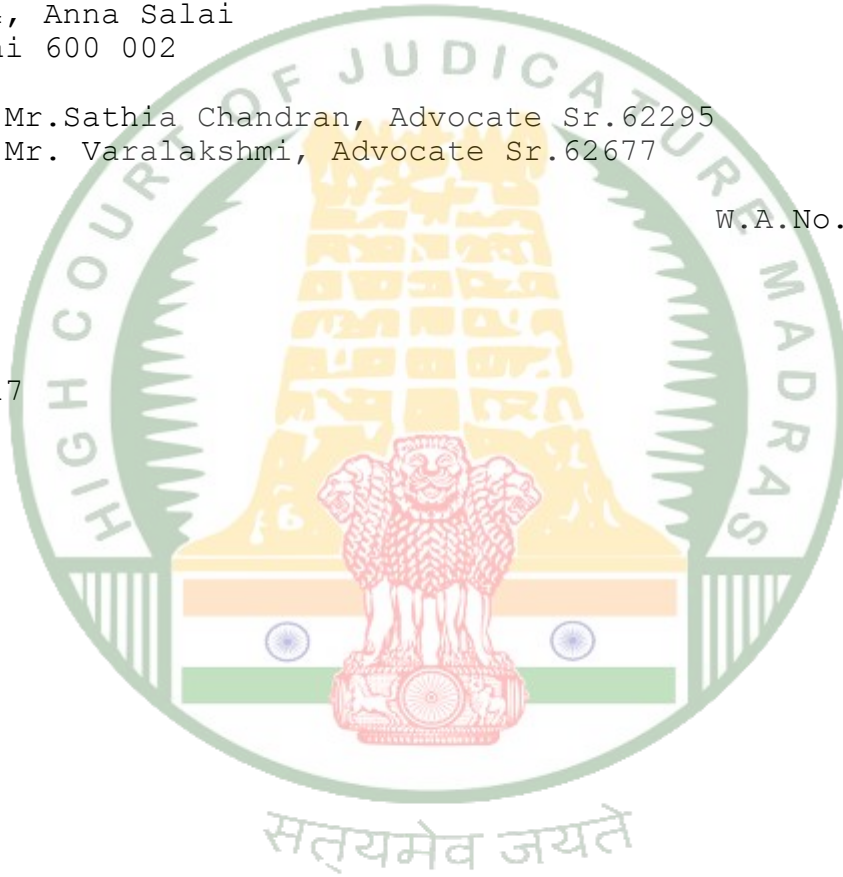
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+ 1 cc to Mr.Sathia Chandran, Advocate Sr.62295
+ 1 cc to Mr. Varalakshmi, Advocate Sr.62677

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