

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P. No. 17135 of 2017
and W.M.P.No.18604 of 2017

Saraswathi

... Petitioner

Vs

1. The Chairman/ Appointing Authority
Tamil Nadu Electricity Generation &
Distribution Corporation Limited,
N.P.K.R.R. Building,
144, Anna Salai, Chennai - 600 002.
2. The Executive Engineer,
Tamil Nadu Electricity
Distribution Circle,
Race Course, Coimbatore - 641 018. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to appoint me as Technical Assistant in any one of the branches Electrical Engineering / Electrical and Electronics Engineering, Electronics and Communication Engineering / Instrumentation Engineering by disposing the representation dated 23.06.2016 given by the petitioner.

For Petitioner : Mr.C.Deivasigamani

ORDER

The prayer sought for in this writ petition is for a direction to the first respondent to appoint the writ petitioner as Technical Assistant in any one of the branches Electrical Engineering / Electrical and Electronics Engineering, Electronics and Communication Engineering / Instrumentation Engineering, based on the representation submitted on 23.06.2016.

2. The learned counsel appearing for the writ petitioner contended that the petitioner is a Diploma holder in Electrical and Electronics Engineering (Instrumentation) studied in Government Polytechnic for Women at Coimbatore during the year 2001-2004.

3. The writ petitioner is employed at Coimbatore Electricity Distribution Circle for the past three years without any break in service and the petitioner is discharging her duties sincerely. On 28th February 2016, the respondent had issued a notice for direct recruitment to the post of Technical Assistant in Electrical Engineering / Electrical and Electronics Engineering / Electronics Communication Engineering / Instrumentation Engineering.

4. The writ petitioner moved this writ petition with an apprehension that in the event of recruiting candidates, pursuant to the notification dated 28th February 2016, she will be ousted from service. With this apprehension, the writ petitioner has filed this writ petition seeking for direction to appoint the writ petitioner.

5. The only ground raised in this writ petition is that, the writ petitioner is serving in the respondents department continuously for a period of three years and therefore, she is entitled for absorption in the permanent vacancies.

6. Such a right assumed by the writ petitioner is misconceived, in the view of the judgment of the Constitution Bench of the Hon'ble Supreme Court of India in the case of Secretary, State of Karnataka Versus Uma Devi and Others reported in 6 (4) SCC 1.

7. The Constitution Bench have categorically held that an employee is appointed not in accordance with the recruitment rules, is not entitled to be continued in service. In other words, back door entry in public service cannot be permitted and all appointments by the State or Union to be done in accordance with the Recruitment Procedures contemplated under the Constitutional Schemes. Hence, any appointment through back door entry is to be deprecated. All citizens of this Country should get equal opportunities in public employment and mere continuance of temporary service will not confer any right on the individuals to claim for regularisation and permanent absorption.

8. Thus, any recruitment should be undertaken only in accordance with the Constitutional schemes and based on the Rules thereon and any appointments made not in accordance with the Recruitment Procedures cannot be conferred with any right thereafter for permanent absorption.

9. In this view of the matter, the right advanced in this writ petition is misconceived and cannot be considered by this Court. Hence, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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