



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD) .No.18441 of 2013

and

M.P(MD)No.1 of 2013

Revathi

... Petitioner

Vs.

The Chief Engineer,
Tamilnadu Generation and
Power Corporation,
(TANGEDCO)
Administrative Branch,
8th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai-2.

... Respondent

Petition filed under Article 226 of the Constitution of India praying, for issuance of Writ of Mandamus, directing the respondent to consider the SSLC qualification of the petitioner for the internal selection to the post of Junior Assistant in the Administrative Branch of the respondent Corporation without referring to Tamil Nadu Regulations 112 Annexure I Division 7(c) Note 3 of Tamil Nadu Electricity Board Service Regulations and to appoint the petitioner as Junior Assistant and consequently direct the respondent to include the name of the petitioner in the proceedings No.043873/1429/G33/G331, dated 04.06.2012 for internal selection of Junior Assistants.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.G.Kasinathadurai

ORDER

The petitioner joined as a contract labour under the respondent corporation on 01.04.1984 and after regularisation, she was appointed as helper on 01.05.1999.

2. According to the petitioner, she has completed SSLC and also obtained ITI grade certificate in the year 1991. The petitioner was promoted as Commercial Assistant in the year 2005 and Commercial Inspector in the year 2009.



3. In the year 2011, the respondent Corporation has called for applications to fill up vacancies of Junior Assistants by conducting internal selection. The case of the petitioner has been rejected for the said selection and therefore, the petitioner's husband made a request under the Right to Information Act, 2005 to know the reason for the rejection. Thereafter, the respondent Corporation has given information as sought for by the petitioner's husband vide proceedings dated 05.10.2013. The said communication reveals that since the helpers who are recruited having I.T.I certificate issued by NTC/NAC are not eligible to be promoted as Junior Assistant, the petitioner is not entitled to get promotion as Junior Assistant. Challenging the same, the petitioner has come forward with this writ petition.

4. The respondent Corporation would rely upon Note 3 to Division VII A, B and C of Annexure-1 of the Tamil Nadu Electricity Board Service Regulations which reads as follows:

"National Trade Certificate/National Apprenticeship Certificates candidates recruited as Helpers shall not eligible for internal selection to the post of Junior Assistants and Typists including Steno-Typist."

5. In the counter affidavit filed by the respondent Corporation, it is stated that in view of the Note 3 to Division VII A, B and C of Annexure-1 of the Tamil Nadu Electricity Board Service Regulations, the case of the petitioner cannot be considered for selection to the post of Junior Assistant through internal selection.

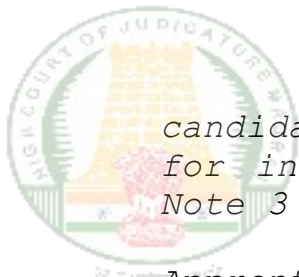
6. Learned counsel for the petitioner has relied on the decision of this Court in W.P.No.32259 of 2012, dated 29.01.2013 wherein the similar issue was considered.

7. The relevant portion of the said order reads as follows:-

"15. The only issue in this writ petition is as to whether the petitioner is not eligible for internal selection to the post of Junior Assistant, in view of Note:3 to Division VII-A, B and C of clause (3) in Annexure 1 of the Tamil Nadu Electricity Board Service Regulations. Division VII-A, B and C provide the method of appointment to the post of Junior Assistant in category 3 of these Divisions.

16. The method of appointment is either by way of direct recruitment or by way of internal selection. The post of Office Helper is one of the categories, which is eligible for consideration to the post of Junior Assistant through internal selection.

17. Note 3 states that the National Trade Certificate/National Apprenticeship Certificate



candidates, who are recruited as Helpers, are not eligible for internal selection to the post of Junior Assistant. Note 3 is extracted hereunder:-

"National Trade Certificate/National Apprenticeship Certificate candidates recruited as Helpers shall not be eligible for internal selection to the post of Junior Assistants and Typists including Steno-Typists."

18.If the petitioner is recruited as Helper for possessing National Trade Certificate/National Apprenticeship Certificate, he is not eligible for internal selection to the post of Junior Assistant.

19.Helpers are recruited through Employment Exchange, as per Tamil Nadu Electricity Board Service Regulations and the qualification for the post of Helper is that one should possess National Trade Certificate/National Apprenticeship Certificate and for such appointment, they are given scale of pay.

20.In this case, admittedly, the petitioner was not recruited as Helper through Employment Exchange. He was appointed on compassionate ground as Helper (Trainee) based on his SSLC qualification and not for his National Trade Certificate/National Apprenticeship Certificate qualification. As helper trainee, he was not given scale of pay and he was given a consolidated monthly pay that is much lesser than the pay of a Helper."

8.In view of the above said decision, this writ petition is allowed and Rule Nisi is made absolute. There will be a direction to the respondent Corporation to consider the petitioner for internal selection to the post of Junior Assistant in the Administrative Branch of the respondent Corporation. The respondent Corporation is also directed to include the name of the petitioner in the annexure to the proceedings of the respondent Corporation dated 04.06.2012 for internal selection as Junior Assistant. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

+1cc to Mr.C.Jeganathan, Advocate Sr.No.53233

+1cc to Mr.G.Kasinathadurai, Advocate Sr.No.53351

rmi/vsg

vb/mr/sar2/28.04.2017/3p/3c