

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM :

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.1193 of 2011

and

M.P.No. 1 of 2011

A.R.Saraswathy (Died)

1.D.Harikrishnan

2.H.Sathish Kumar

3.H.Jayashree

...Petitioners

Vs.

1.The Chairman

Tamilnadu Generation

and Distribution Corporation Ltd

(Tamilnadu Electricity Board)

144 Anna Salai, Chennai 600 002.

2.The Superintending Engineer

TANGEDCO (TNEB), CEDC/Central

Nungambakkam, Chennai 600 034

3.The Asst. Engineer

TANGEDCO (TNEB), O & M.

Sowcarpet, Chennai 600 003

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in the Memorandum No.117/Ni B2/C1/Ko. Promotion/ 2010-3 dated 28.06.2010 on the files of the second respondent (List of candidates not selected for promotion to the post of Special Grade Foreman), quash the same and issue appropriate directions to the respondents to consider the petitioner's candidature for notional promotion to the post of Special Grade Foreman with effect from 28.06.2010, together with all consequential pay benefits, in pursuant to the Memorandum No.117/Ni B2/Ci/Ko.Foreman Gr-I/10-I dated 10.06.2010 (Item No.51) and in pursuant to the petitioner's representation dated 16.07.2010.

For Petitioner : Mr.R.Selvakumar

For Respondents : Mr.P.R.Dhilip Kumar

Standing Counsel for TNEB

O R D E R

The Writ Petition is filed to quash the proceedings in the Memorandum No.117/Ni B2/C1/Ko. Promotion/ 2010-3 dated 28.06.2010 on the file of the second respondent and issue appropriate directions to the respondents to consider the petitioner's candidature for notional promotion to the post of Special Grade Foreman with effect from 28.06.2010, together with all consequential pay benefits, in pursuant to the Memorandum No.117/Ni B2/Ci/Ko.Foreman Gr-I/10-I dated 10.06.2010 (Item No.51) and pursuant to the petitioner's representation dated 16.07.2010.

2. The learned counsel for the petitioner would submit that pending writ petition the writ petitioner died and so her legal heirs have been impleaded as petitioners herein. The deceased petitioner was appointed as a casual labourer in the year 1971 and subsequently got observed and regularized as Helper permanently with effect from 02.05.1973 in the Tamilnadu Electricity Board, now known as Tamilnadu Generation and Distribution Corporation Limited. Subsequently, she was promoted as Foreman Grade I on 17.04.2008. The 2nd respondent issued a seniority list on 31.05.2010, enlisting the Foreman Grade I personnel. In the above said seniority list, the petitioner's name stood at No.51. Thereafter, the second respondent issued a list of selected candidates for the post of Special Grade Foreman, wherein, similarly placed persons those who are placed below the petitioner in the seniority list have been selected and orders have been issued by the respondent. Unfortunately, the petitioner's name was not included in the list. Therefore, she filed the present writ petition before this Court.

3. The 2nd respondent has filed the counter affidavit. The learned Standing Counsel appearing for the respondent Board drew the attention of this Court to paragraph 4 of the counter affidavit, wherein it is stated that based on the suitability reports given by the concerned Executive Engineers, the promotion list to the post of Special Grade Foreman is prepared. In the suitability report given by the Executive Engineer, Egmore it has been stated that she is incapable of work execution and field supervision. Hence, the name of the petitioner was not considered for promotion to the post of Special Grade Foreman.

4. From the abovesaid facts, it is seen that the 2nd respondent has not given any reasons for non-selection of the petitioner for promotion to the post of Special Grade Foreman, except the suitability report submitted by the Executive Engineer, Egmore. Further, a copy of the report has not been

furnished to the writ petitioner. There is no proper reasoning given in the counter for denying the promotion to the petitioner. In the absence of any material before this Court and non-furnishing of the report to the petitioner, the impugned Memorandum is liable to be set aside.

5. Therefore, the impugned Memorandum No.117/Ni B2/C1/Ko. Promotion/ 2010-3 dated 28.06.2010 is set aside, in so far as the writ petitioner is concerned and the 2nd respondent is directed to consider the representation of the petitioner dated 16.07.2010 and pass appropriate orders, in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition is allowed. Consequently the connected Miscellaneous Petition is closed. No order as to costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

avr
To

1.The Chairman
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Distribution Corporation Ltd
(Tamilnadu Electricity Board)
144 Anna Salai, Chennai 600 002.

2.The Superintending Engineer
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+1 CC to Mr.R.Selvakumar, Advocate sr 82139.

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VGII(CO)
SP(24/01/2019)