



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2018

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD).Nos.13553 of 2017 & 15792 of 2016
and

W.M.P. (MD).Nos.1783 of 2018, 10603 to 10605 of 2017
& 11585 to 11587 of 2016

- 1.T.Neerath Pandian
- 2.S.Murugan
- 3.K.Navaneethakrishnan
- 4.G.Rengarajan
- 5.T.K.Murugan
- 6.B.Sharmila
- 7.K.Jayalakshmi
- 8.A.Mutharam

...Petitioners in both Petitions

Vs.

- 1.Tamil Nadu Generation and Distribution
Corporation Limited,

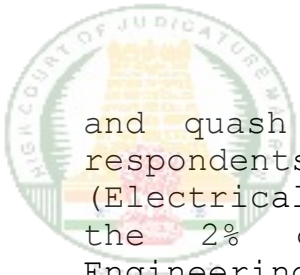
Represented by its Chairman cum Managing Director,
No.144, Anna Salai,
Chennai-600 002.

- 2.The Chief Engineer/Personnel,
Tamil Nadu Generation and Distribution Corporation Limited,
No.144, Anna Salai,
Chennai-600 002.

...Respondents in both Petitions

PRAYER in W.P. (MD).No.13553 of 2017: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.058434/1061/G.55/G.551/2017-1 dated 12.07.2017 on the file of the respondent no.2 and quash the same as illegal and consequently to direct the respondents to appoint the petitioners as Assistant Engineers (Electrical) in the ratio of 1:1 by internal selection by following the 2% of ratio for candidates possessing Instrumentation Engineering in the available vacancies within the time stipulated by this Court.

PRAYER in W.P. (MD).No.15792 of 2016 Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in (per.) (FB) TANGEDCO proceeding No.12, (Adm.Branch), dated 21.08.2014 on the file of the respondent No.2



and quash the same as illegal and consequently to direct the respondents to appoint the petitioners as Assistant Engineers (Electrical) in the ratio of 1:1 by internal selection by following the 2% of ratio for candidates possessing Instrumentation Engineering in the available vacancies left out in recruitment (Internal) process commenced vide the Letter No.044575/234/G.55/G.551/2015-1, dated 26.05.2015 on the file of the Respondent No.2, within the time frame stipulated by this Court.

In both Writ Petitions

For Petitioners

: Mr.T.Lajathi Roy

For Respondents

: Mrs.S.Srimathi

(in both the petitions)

for Mr.S.M.S.Johny Basha

COMMON ORDER

Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

2.The petitioners in both the Writ petitions are employed as Technical Assistants/Junior Engineers Grade II, who are qualified in the Instrumentation discipline. The next promotional post is that of Assistant Engineer (Electrical). All these years in the matter of promotion to the post of Assistant Engineer (Electrical), 2% reservation was earmarked for Instrumentation Engineers. For Electrical Engineers, 91% was earmarked. For Telecommunication Engineers, 5% was earmarked and for Computer Engineers 2% was earmarked. This was the position that was laid down by the Board Proceedings dated 21.12.1992. The same is duly reflected in the Tamil Nadu Electricity Board Service Regulations also. While so, by the impugned Board proceedings, there was merger of two categories belonging to Telecommunication Instrumentation discipline and 7% reservation was earmarked while considering the candidates from the feeder cadre to the post of Assistant Engineer (Electrical). This is assailed in both these Writ Petitions. These Writ Petitions will have to be allowed for following the two reasons:

(i) It is not in dispute that in the Tamil Nadu Electricity Board Service Regulations, 2% quota continues to be earmarked for the candidates in the feeder cadre belonging to the instrumentation category. Till date, the service regulations have not been amended. No doubt in the impugned Board proceedings, it is mentioned that necessary amendments to the Tamil Nadu Electricity Board Regulations will be issued separately. But then, the position that obtains as on date is that the Tamil Nadu Electricity Board Service Regulations remain un-amended. There is something called hierarchy of laws. The Tamil Nadu Electricity Board Regulations are statutory in nature. They were issued in exercise of the power conferred under Section 79(c & k) of Electricity Supply Act, 1948. They remain saved by the new statute also. It is thus clear that they rank above the Board proceedings. Therefore, the impugned Board proceedings cannot have a prevailing effect over the service



regulations. On this sole ground, the petitioners are entitled to succeed.

(ii). There is yet another formidable ground in favour of the petitioners. The impugned Board proceedings read that since number of candidates from Instrumentation Engineering branch are lesser than Electronics & Communication Engineering branch candidates, 2% ratio allotted to the Instrumentation candidates shall be merged with Electronics and Communication candidates and allotment may be fixed in both categories at 7%.

3. This Court is of the view that such reason is patently unreasonable. The very purpose of allotting separate quotas is to ensure that the candidates from the respective categories are considered in the matter of promotion. By merging two categories, the entire identity is effaced and lost. The reason set out in the impugned proceedings is irrational. If there is no sufficient availability of candidates, then it is a different matter. The number of candidates being less cannot be a relevant consideration. Applying the same logic, obviously, the Electronics Communication Engineering candidates are lesser, when compared to Electrical Engineering candidates. The question is can the Board then merge category 1 with category 2 also. Therefore, the reasons set out in the impugned Board proceedings are patently unsustainable.

4. Looked at from any angle, the order impugned in the Writ Petitions is liable to be quashed. It is accordingly quashed. Consequently, there will be a direction to the respondents to follow the 2% quota in the matter of promotion and consider the case of the petitioners accordingly. Such orders will be issued within a period of eight weeks from the date of receipt of a copy of this order.

5. These Writ Petitions are allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai,
Chennai-600 002.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Chief Engineer/Personnel,
Tamil Nadu Generation and Distribution Corporation Limited,



No.144, Anna Salai,
Chennai-600 002.

+1CC TO M/S.T.LAJAPATHI ROY, ADVOCATE, SR NO.54122

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ORDER MADE IN
W.P. (MD) .Nos.13553 of 2017
& 15792 of 2016
08.03.2018

tsg

MS/SKN-RSK/SAR-3/15.03.2018/4P.4C