

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

Review Application (W) No.127 of 2019
and WMP No.17280 of 2019

1.The Chief Engineer/Personnel,
Tamil Nadu Electricity Board/TANGEDCO,
8th Floor, NPKRR Maaligai,
TNEB Complex, 144, Anna Salai,
Chennai – 600 002.

2. The Chairman,
Tamil Nadu Electricity Board/TANGEDCO,
8th Floor, NPKRR Maaligai,
TNEB Complex, 144, Anna Salai,
Chennai – 600 002.

...Petitioners

Vs

1. A.C.Selvamani
2. R. Velmurugan
3. A. Vasudevan
4. M.Radhakrishnan
5. P.Ponnusamy
6. S.Jothi
7. M.Thentamil
8. S.Chiradevi
9. A.Kannan
10. A.Sridhar
11. N.Kumaravel
12. R.Raja
13. S.Kalaiselvi
14. C.Lavanya
15. S.Thahir Basha
16. T.Rajathi
17. G.Srineevasan

... Respondents

Prayer: Review filed under Order 47 Rule 1 read with Section 114 of C.P.C. To review the order dated 14.03.2019 made in W.P.No.11609 of 2017.

For Petitioners : Mr.Anand Gopalan
Standing Counsel
For Respondents : Mr.M.Vijayakumar

ORDER

The petitioner seeks review of order dated 14.03.2019 wherein a batch of 17 petitioners had sought a mandamus for their promotion to the post of Technical Assistant (Electrical) for internal selection under available vacancies in the Tamil Nadu Electricity Board/TANGEDCO on par with juniors with effect from 22.09.2016 with all service and monetary benefits.

2. At the time of hearing, both parties were heard in full. The exchange of communications inter se the Tamil Nadu Electricity Board and the IGNOU discussed in the course of hearing have been referred to and have been extracted in full in the order, which is sought to be reviewed.

3. The grounds raised and argued are that the respondents are full time, regular employees in TANGEDCO and thus could not have undergone a full time course with the IGNOU and that the applications filed by the respondents had been only to pursue a part time course, which fact, according to the petitioner, had been omitted to be placed before the Court when the matter was heard.

4. Neither of these arguments were raised at the original instance. The opposition of TANGEDCO to the prayer of the respondents was on the basis that the certificates issued by IGNOU varied in terms of the duration of the course and whether the qualification acquired from IGNOU was to be considered as equivalent to a Diploma in the Department of Technical Education. It was only after a detailed consideration of the submissions that the order dated 14.03.2019 was passed.

5. The provisions of Order 47 Rule 1 of Civil Procedure Code dealing with review of judgment state as follows:

'1 . Application for review of judgment— (1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

Explanation—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.'

Dr.ANITA SUMANTH,J.

6. No case has been made out for review of order dated 14.03.2019. The situations that are liable to fall within the sweep of Order 47 Rule 1 extracted above are limited to three limbs, none of which have been satisfied in the present case.

7. This Review Application is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

23.09.2019

Index : Yes/No
Speaking Order/Non speaking Order
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