

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2019

Coram

The Honourable Mr. Justice R. Subbiah
and
The Honourable Mr. Justice Krishnan Ramasamy

Writ Appeal Nos. 1071 and 1072 of 2016
Writ Petition Nos. 8150, 10266, 10267, 17997, 17998, 29113,
29114, 29115,
29116, 33743, 33744, 33745, 39292, 39673, 41609, 41610 of 2016
Writ Petition Nos. 13948, 13949, 13950, 13951, 13952, 13953 of
2017
Writ Petition Nos. 1808, 18576, 18624 of 2018

1.R. KRISHNASAMY

2.K. NAGARAJAN

3.S. VENKATESH

4. V.K. MARIAPPAN ...APPELLANTS IN W.A.NO. 1071 OF 2016

1 R.JAYAKUMAR ... APPELLANT in WA No.1072 of 2016

1 V.SURESH

2 N.CHIDAMBARAM

3 N.GUNASEKARAPANDIAN

4 S.ANBURAJAN

5 A.ALPHONES

6 S.ARPUTHARAJ ... PETITIONERS in WP No.8150 of 2016

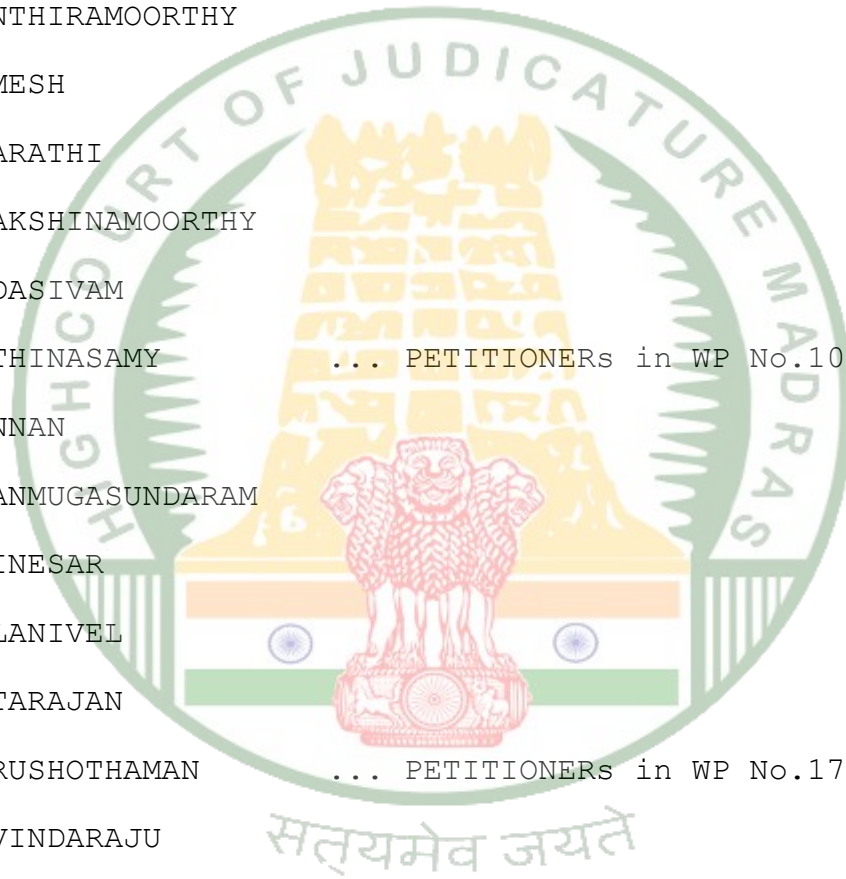
1 V.RAMU

2 T.ESAKKIAPPAN

3 P.BOMMURAJU

4 T.SELVARAJ

5 P.PALANISAMY
 6 V.SARAVANAN ... PETITIONERS in WP No.10266 of 2016
 1 D.SENTHILKUMAR
 2 G.VENKATESAN
 3 R.VENKATESAN
 4 K.GUNASEKARAN
 5 S.MANTHIRAMOORTHY
 6 K.RAMESH
 7 S.BHARATHI
 8 A.DHAKSHINAMOORTHY
 9 C.SADASIVAM
 10 S.RATHINASAMY ... PETITIONERS in WP No.10267 of 2016
 1 N.KANNAN
 2 E.SHANMUGASUNDARAM
 3 T.EBINESAR
 4 A.PALANIVEL
 5 T.NATARAJAN
 6 B.PURUSHOTHAMAN ... PETITIONERS in WP No.17997 of 2016
 1 G.GOVINDARAJU
 2 R.KUMAR
 3 K.SATHIVEL
 4 N.SENTHILKUMAR ... PETITIONERS in WP No.17998 of 2016
 1 D.C.KARTHIKEYAN ... PETITIONER in WP No.29113 of 2016
 1 P.S.BASKARAN ... PETITIONER in WP No.29114 of 2016



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1 S.SURESH ... PETITIONER in WP No.29115 of 2016
1 S.VANATHAIAN ... PETITIONER in WP No.29116 of 2016
1 A.SHANMUGAM
2 B.RAMESH CHANDRAN
3 N.VEERAKUMAR
4 K.SIVAKUMAR
5 A.ANANDHAKUMAR
6 M.SIVASUBRAMANIYAM
7 S.LOGANATHAN
8 B.ARIVU ... PETITIONERS in WP No.33743 of 2016
1 V.LOGANATHAN
2 S.RAJI S/O.A.SANTHIYAGU
3 S.PALANI
4 G.NANDHAKUMAR
5 R.ANNAROBINSON ... PETITIONERS in WP No.33744 of 2016
1 P.SARAVANAN
2 M.M.MANIKANDAN ... PETITIONERS in WP No.33745 of 2016
1 K.BALAMURUGAN
2 S.KALIAPPAN
3 A.JOSEPH SENTHIL KUMAR
4 P.SHANMUGAM
5 M.VIJAY SANKAR ... PETITIONERS in WP No.39292 of 2016
1 A.RAJAN
2 A.SHANMUGASUNDARAM

3 G.LAKSHMANASAMY ... PETITIONERS in WP No.39673 of 2016

1 B.SELVARAJ ... PETITIONER in WP No.41609 of 2016

1 S.JAGAJEEVANATHAN ... PETITIONER in WP No.41610 of 2016

1 P.BALASUBRAMANIAN ... PETITIONER in WP No.13948 of 2017

1 P.PALANISAMY ... PETITIONER in WP No.13949 of 2017

1 M.SAKTHI ... PETITIONER in WP No.13950 of 2017

1 P.NAGARAJAN ... PETITIONER in WP No.13951 of 2017

1 A.D.SENTHIL KUMAR ... PETITIONER in WP No.13952 of 2017

1 R.VIJAYAKUMAR ... PETITIONER in WP No.13953 of 2017

1 C.SAVARIMUTHU

2 C.MOORTHY

3 A.PITCHAIMUTHU ... PETITIONERS in WP No.1808 of 2018

1 R.SWAMINATHAN ... PETITIONER in WP No.18576 of 2018

1 S.RAMU ... PETITIONER in WP No.18624 of 2018

Versus

1. THE CHAIRMAN CUM MANAGING DIRECTOR
TANGEDCO LIMITED
NO.144, ANNA SALAI
CHENNAI - 600 002
 2. THE CHIEF ENGINEER/PERSONAL
TANGEDCO LIMITED
NO.144, ANNA SALAI
CHENNAI - 600 002
 3. THE COMMISSIONER
EMPLOYMENT AND TRAINING
GUINDY, CHENNAI .. RESPONDENTS in W.A.1071/2016
- 1 THE CHAIRMAN CUM MANAGING
DIRECTOR TANGEDCO LTD NO.144 ANNA SALAI
CHENNAI-002.

- 2 THE CHIEF ENGINEER/PERSONAL
TANGEDCO LTD NO.144 ANNA SALAI CHENNAI-002.
- 3 THE COMMISSIONER
EMPLOYMENT AND TRAINING GUINDY CHENNAI.
... RESPONDENTS in WA No.1072 of 2016
- 1 THE CHAIRMAN CUM MANAGING
DIRECTOR TANGEDCO LTD. NO.144 ANNA SALAI
CHENNAI-600 002
- 2 THE CHIEF ENGINEER/PERSONAL
TANGEDCO LTD. NO.144 ANNA SALAI CHENNAI-600 002
- 3 THE COMMISSIONER
EMPLOYMENT AND TRAINING GUINDY CHENNAI
.. RESPONDENT in WP No.8150 of 2016, 10266, 10267, 17997, 17998 of 2016, 33743 to 33745, 39292, 39673, 41609, 41610 of 2016, 13948 to 13953/2017, 1808, 18576, 18624/2018.
- 1 THE CHAIRMAN CUM MANAGING
DIRECTOR TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD. (TANGEDCO)
NO.144 ANNA SALAI CHENNAI-600 002.
- 2 THE CHIEF ENGINEER
(PERSONNEL) TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD. (TANGEDCO)
NO.144 ANNA SALAI CHENNAI-600 002.
- 3 OFFICE OF THE SUPERINTENDING
ENGINEER CUDDALORE ELECTRICITY DISTRIBUTION
CIRCLE TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD. 15-A NETHAJI
ROAD CUDDALORE-607 041.
... RESPONDENTS in WP No.29113, 29116 of 2016

W.A. No. 1071 of 2016:- Appeal filed under Clause 15 of The Letters Patent against the Order dated 20.06.2016 passed in WP No. 20849 of 2016.

Prayer in W.P.20849/2016:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, to

Declare that the notification issued by the 2nd respondent in the website of TANGEDCO, vide DPR/1000/TENDER/2013 in so far as the interview is concerned and the consequential selection list of 4000 Nos of Helper (Trainee) by direct recruitment - 2013-2014 , issued by the 1st and 2nd respondents without selecting the petitioners are null and void , illegal and against the Boards proceedings and consequently direct the 1st & 2nd respondents to appoint the petitioners to the post of Helper (Trainee) with all attendant benefits.

W.A.1072/2016:

Appeal filed under clause 15 of the Letters patent, against the order dated 20.06.2016 made in W.P.20850/2016, praying to declare that the notification issued by the 2nd respondent in the website of TANGEDCO, vide DPR/1000/TENDER/2013 in so far as the interview is concerned and the consequential selection list of 4000 Nos of Helper (Trainee) by direct recruitment - 2013-2014 , issued by the 1st and 2nd respondents without selecting the petitioners are null and void , illegal and against the Boards proceedings and consequently direct the 1st & 2nd respondents to appoint the petitioner to the post of Helper (Trainee) with all attendant benefits.

Prayer in W.P.Nos. 8150/2016, 10266, 10267/2016, 17997, 17998/2016, 29113 to 29116/2016, 33743, 33745/2016, 39292/2016, 39673/2016, 41609/2016, 41610/2016, 13948 to 13953/2017, 1808, 18576, 18624/2018:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ in the nature of Writ of Declaration declaring that the notification issued by the 2nd respondent in the website of TANGEDCO, vide DPR/1000/TENDER/2013 in so far as the interview is concerned and the consequential selection list of 4000 Nos of Helper (Trainee) by direct recruitment 2013-2014 issued by the 1st and 2nd respondents without selecting the petitioners are null and void, illegal and against the Board Proceedings and consequently direct the 1st & 2nd respondents to appoint the petitioners to the post of Helper (Trainee) with all attendant benefits.

(in all)

For Appellant : Mr. N.G.R. Prasad for Mr.P. Kumanan
For Respondents : Mr. P.R. Dhilipkumar
: Standing Counsel for RR1 and 2
: No Appearance for R3

COMMON JUDGMENT

(Judgment of the Court was delivered by R. SUBBIAH, J)

The relief sought for in the above writ appeals as well as the writ petitions are identical and inter-related and therefore, the writ appeals as well as the writ petitions filed by the individuals are taken up for hearing together and are disposed of by this common judgment.

Grievance of the appellants in WA Nos. 1071 and 1072 of 2016:

2. The writ appeals in W.A. No. 1071 and 1072 of 2016 arise out of the order dated 20.06.2016 passed in WP Nos. 20849 and 20850 of 2016 respectively. The writ petition Nos. 20849 and 20850 of 2016 were filed by the appellants by contending that they were fully qualified for appointment to the post of ITI Helper (Trainee) and they have also attended interview for the said post, however, for the reasons best known, they were not selected and appointed by the respondents. The further grievance of the appellants in W.A. Nos. 1071 and 1072 of 2016 (petitioners in WP Nos. 20849 and 20850 of 2016) is that earlier, similarly placed persons, 84 in number, have approached this Court by filing W.A. No. 81 of 2015 in which a compromise had been arrived at with the respondents/Board pursuant to which they were appointed to the post of ITI Helper (Trainee), however, the same benefit has not been extended to them.

3. The learned single Judge, by the order dated 20.06.2016, dismissed the writ petitions by holding that the compromise was recorded by this Court in the Judgment dated 14.10.2015 in W.A. No. 81 of 2015 etc., batch and six months thereafter, the petitioners have filed the writ petitions. The learned single Judge therefore held that the writ petitioners are 'fence sitters' who waited for some time for others to get favourable orders in their favour and thereafter, they have come to this court. Therefore, it was held that the petitioners were not bonafide in filing the writ petitions and the writ petitions suffer from the principles of delay and latches. Further, it was held that the compromise was held only between the appellants in W.A. No. 81 of 2015 etc., batch and the respondents/TANGEDCO and it cannot be extended to others. Therefore, by the order dated 20.06.2016, the learned single Judge dismissed W.P. Nos. 20849 and 20850 of 2016 against which the present Writ Appeal Nos. 1071 and 1072 of 2016 are filed.

Grievance of the writ petitioners in WP No. 8150 of 2016 etc., batch:-

4. The grievance of the petitioners in WP Nos. 8150 of 2016 etc., batch is also identical with that of the appellants in W.A. No. 1071 and 1072 of 2016. According to the writ petitioners, they are ITI holders (Wireman & Electrician) and after completion of such trade certificate course, they have been working as daily wage employees in the Tamil Nadu Electricity Board with the fond hope that their service will be regularised in a phased manner. However, even after putting in two decades of service, their service has not been regularised and they continue to work as daily wage employees/contract labourers or consolidated pay workers. While so, a notification dated 12.07.2012 was issued by the respondents to fill up 4000 vacancies of Helpers (Trainee) by direct recruitment through employment exchange. As per the notification, the upper age limit for OC, BC/BCM/MBC & SC/ST candidates was fixed as 30 years, 32 years and 35 years respectively. Challenging the fixation of age limit, one Kumar and others filed WP Nos. 24128 of 2012 etc., batch before this Court and by order dated 01.11.2012, this Court disposed of the batch of writ petitions with a direction to the respondents to relax the upper age limit in respect of holders of ITI Trade Certificate. Accordingly, after relaxing the age limit, call letters were sent to the petitioners herein and they have also participated in the interview. Even though the petitioners fared well in the interview, they were not selected, rather, those who are in the age group of 20 to 25 years were selected for the post. It is the contention of the petitioners that the respondents failed to take note of the experience the petitioners have gained in the respondents department for more than two decades but appointed those who do not possess any experience at all. With the result, even though the petitioners have put in more than two decades of service, they are continuing their employment on daily wage basis/consolidated pay workers or contract labourers without getting their service regularised. By virtue of non-regularising the service of the petitioners or appointing them to regular posts in the selection process recently concluded, the fundamental rights guaranteed to them under Article 14 and 16 of The Constitution of India have been violated. The respondents ought to have exhibited themselves as a model employer without showing any partisan attitude towards the petitioners. The respondents also failed to follow the parameters prescribed by the Government in G.O. Ms. No.145, P&AR Department dated 30.09.2010 to give preferential treatment to the petitioners who are working in the various departments of the respondent for more than two decades. It is in those circumstances, the petitioners have filed these writ petitions for a Writ of Declaration to declare that the notification issued by the second respondent in the Website of TANGEDCO vide

DPR/1000/Tender/2013 in so far as the interview is concerned and the consequential selection list of 4000 Nos. of Helper (Trainee) by direct recruitment, 2013-2014 without selecting the petitioners as null and void, illegal and against the Board proceedings and consequently direct the respondents 1 and 2 to appoint them to the post of Helper (Trainee) with all attendant benefits.

5. The learned counsel appearing for the appellants as well as the writ petitioners would contend that earlier, when an identical claim made by the persons similarly placed like the appellants as well as the writ petitioners for regularisation of their service was taken up by the Honourable Supreme Court, the Honourable Supreme Court appointed Justice V. Khalid, former Judge of the Honourable Supreme Court to examine the dispute involved in the matter of regularisation of service of the daily wage workers and to submit a report. Accordingly, a report dated 11.02.1991 was submitted in Special Leave Petition No. 1820 of 1990 and it was also recorded by the Honourable Supreme Court with the direction to the respondents/Board to comply with the suggestions made in the report. The relevant portion of the report submitted by Honourable Mr. Justice V. Khalid in Special Leave Petition No. 1820 of 1990 reads as follows:-

"110.The Supreme Court has appointed me to give a final decision which shall be binding on the parties. It is therefore necessary in the interests of fair play and justice that I take into account the claims of not only the existing workers but also the skilled workers who are not before me. After giving my anxious consideration, I decide that after the issue of appointment orders to 7,000 existing workers, the Board shall thereafter appoint the remaining existing workers from the lists and skilled workers in the ratio of 1 : 1. The existing workers will be selected by the Selection Committee and the ITI Helpers by the Board....."

6. Pursuant to the above said report, the respondents issued Per.B.P. (FB) No.40, Administrative Branch dated 14.12.2005 prescribing certain parameters for regularising the service of the daily wage employees. Subsequently, another proceedings in (Per) B.P. (FB) No.44, Administrative Branch dated 06.09.2007 was also issued in which certain guidelines were issued for regularisation and/or absorbing the contract labourers who are working in various departments of the Board. Thereafter, another proceeding in (Per) BP TANGEDCO Proceedings No.14 (Administrative Branch) dated 12.07.2012 was issued

wherein it was ordered as follows:-

"2) Accordingly the TANGEDCO hereby approved the following orders:-

a) 4000 ITI Helper (Trainee) with NIC/NAC (ITI) Qualification in the trade of Electrician and Wireman be appointed by direct recruitment through employment exchange, to minimise the large number of Helper vacancies in TANGEDCO. The 4000 ITI Helper (Trainee) will be given 2 years training with the consolidated pay of Rs.3,250/- per month and after completion of training they will come under the regular pay band of Rs.5400-20200-1900 (Grade pay).

b) Considering the large number of persons to be recruited within the short span of time and the fact that recruitment is for the lowest level category in TANGEDCO, the Board directs that there may not be any need for interview excepting for testing their job fitness criteria. Hence, the TANGEDCO directs that a list may be drawn from the employment exchanges and all eligible candidates subject to their physical fitness required for the job specification, be recruited duly following other rules and regulations in force, so as to improve field level performance of the TANGEDCO....."

7. By placing reliance on the above Board proceedings dated 12.07.2012, the learned counsel for the appellants as well as the writ petitioners would contend that inspite of the specific order passed thereon that there may not be any interview that can be conducted excepting for testing their job fitness criteria, the respondents herein have conducted interview and based on the alleged marks secured by the appellants as well as the writ petitioners in such interview, they were not selected for appointment to the post of IIT Helper (Trainee) which is contrary to the Board proceedings dated 12.07.2012. The learned counsel for the petitioners also invited the attention of this Court to the order dated 01.11.2012 passed in WP Nos. 24128 of 2012 etc., batch wherein this Court held as follows:-

"12. As I have already stated, considering the plight of the casual labourers who are working with the Corporation, the Honourable Supreme Court appointed Honourable Justice V. Khalid as One Man Commission to make recommendations. In the said recommendations, Honourable Mr. Justice V. Khalid found that there were 18,006 vacancies to be filled up. The Commission recommended to formulate a scheme. As per the scheme, 7000 vacancies should be

filled up by absorbing the casual labourers who are already in service and the I.T.I. Trade Certificate holders awaiting for employment by having their names on the rolls of the employment exchange. Similarly, in respect of the further remaining 2000 vacancies, the same 1 : 1 ratio should be adopted. So far as the 4,500 vacancies to be filled up by absorbing the casual labourers, it is stated by the respondents that the same has been satisfied. These writ petitions are concerned only with the 4,500 and 1,000 vacancies to be filled up by direct recruitment from I.T.I. certificate holders. Out of these 5,500 vacancies, it is stated that already 2,500 vacancies have been filled up from open market in the year 2009 by appointing I.T.I. trade certificate holders. Thus, there remains 3,000 vacancies to be filled up by calling for the list of eligible candidates from the local employment exchanges. This should have been done somewhere in the year 2003-04 itself. But it was not done. Even after the disposal of batch of writ petitions in *Superintending Engineers, Nagapattinam Electricity Distribution Circle and others vs. Inspector of Labour, Thiruvavur and others* reported in (2009) 4 MLJ 472 also, the same was not done. Now only the process to recruit 2054 candidates have been undertaken. Had these vacancies been filled up immediately after the earlier proceedings more particularly immediately after the scheme formulated by the One Man Commission, these petitioners would have got employment in due course. Since it was not done, now the petitioners have lost their upper age limit. In those special circumstances, I am of the view that on the ground of equity it is absolutely necessary for this Court to issue a direction to the respondents to relax the upper age limit for these I.T.I. Trade Certificate holders so far as the current selection is concerned."

8. By placing reliance on the above decision of this Court as well as the Board Proceedings issued by the respondents, mentioned above, the learned counsel for the appellants as well as the writ petitioners would contend that the appellants as well as the writ petitioners are entitled for extension of the benefits conferred in favour of similarly placed persons like them. As far as the Writ Appeals are concerned, the learned counsel would contend that the learned single Judge ought not to have dismissed the writ petitions on the ground that the writ

petitions were filed belatedly after a period of six months from the date on which this Court recorded the compromise entered into between the appellants in W.A. Nos. 81 of 2015 etc., batch. In any event, such delay in filing WP Nos. 20849 and 20850 of 2016 were not inordinate warranting the learned single Judge to dismiss the writ petitions. The learned counsel therefore prayed for allowing the writ appeals as well as the writ petitions as prayed for.

9. Per contra, the learned counsel for the respondents/Electricity Board relied on the Judgment dated 02.08.2018 passed by the Division Bench of this Court in Writ Appeal Nos. 574 of 2018 etc., batch wherein it was held that the benefits extended in favour of the appellants in W.A. Nos. 81 of 2015 etc., batch cannot be extended in favour of the appellants therein and dismissed the writ appeal. Therefore, by placing reliance on the Judgment dated 02.08.2018 passed in W.A. Nos. 574 of 2018 etc., batch, the learned Standing counsel for the respondents prayed for dismissal of the writ appeals as well as the writ petitions.

10. We have heard the counsel for both sides and perused the materials placed, including the earlier orders passed by this Court in various writ petitions and/or writ appeals. It is seen from the records that this Court, by order dated 04.12.2014 passed in W.P.Nos. 8829 of 2014 etc., batch dismissed the writ petitions on the ground that the petitioners therein secured less marks in the viva-voce and it is based on the same, their claim for regularisation was rejected and they were not selected for the post. Challenging the order dated 04.12.2014 in WP Nos. 8829 of 2014 etc., batch, W.A. Nos. 81 of 2015 etc., batch were filed before the Division Bench of this Court. By judgment dated 14.10.2015, the Writ Appeal were disposed of by recording the compromise entered into between the appellants therein and the respondents/Electricity Board. Thus, the compromise memo has been entered into by the respondents with the appellants in W.A. Nos. 81 of 2015 etc., batch who are identically and similarly placed like the appellants as well as the writ petitioners herein.

11. Admittedly, the appellants as well as the writ petitioners herein are working in various units and/or departments of the Electricity Board. It is seen from the Board proceedings dated 12.07.2012 that as per the recommendations of the One Man Commission, earlier, 4000 ITI Helper (Trainee) were appointed by direct recruitment however, those who were in service by then as consolidated pay workers or daily wage workers were ignored. That is the reason why in the Board

Proceedings dated 12.07.2012, the Board dispensed with the conduct of interview for the existing ITI Helper (Trainees) for regularising their service on the ground that they are the lowest level category in the hierarchy of TANGEDCO. However, contrary to the Board Proceedings dated 12.07.2012, interview was conducted and based on the alleged marks secured by the appellants/petitioners herein, they were kept out of the further selection process. On the contrary, for the same set of persons who filed W.A. No. 81 of 2015 etc., batch, the department had chosen to enter into a compromise and thereby attempted to exclude others who did not approach the Court by then. The fact remains that the compromise was entered into by the Board with persons who are similarly and identically placed like that of the appellants as well as the writ petitioners herein. The benefits conferred to the appellants in W.A. Nos. 81 of 2015 by entering into a compromise memo is a remedy in rem and not a remedy in personam. This is more so that the appellants as well as the writ petitioners are working in the various units of the departments of TANGEDCO for the past more than two decades and therefore, by citing technicalities, their claim for regularisation of service cannot be denied.

12. It is seen from the order dated 20.06.2016 passed in WP Nos. 20849 and 20850 of 2016, which are questioned in W.A. No. 1071 and 1072 of 2016, the learned single Judge, by referring to the delay of six months in filing the writ petitions, branded the appellants as fence-sitters and therefore refused to extend the benefit of the earlier Judgment passed by this Court in W.A. Nos. 81 of 2015 in which a compromise was entered into between the appellant and the respondents-TANGEDCO. In this context, useful reference can be made to the decision rendered by the Honourable Supreme Court in the case of (State of Uttar Pradesh and others vs. Aravind Kumar Srivastava and others) reported in 2015 (1) Supreme Court Cases 347 wherein it was held as follows:-

"The moot question which requires determination is as to whether in the given case, approach of the Tribunal and the High Court was correct in extending the benefit of earlier judgment of the Tribunal, which had attained finality as it was affirmed till the Supreme Court. Whereas the appellants contend that the respondents herein did not approach the Court in time and were fence-sitters and, therefore, not entitled to the benefit of the said judgment by approaching the judicial forum belatedly. They also plead the some distinguishing features on the basis of which it is contended that the case of the respondents herein is not at par with the matter which was dealt with by the Tribunal in which order

dated June 22, 1987 were passed giving benefit to those candidates who had approached the Court at that time. On the other hand, the respondents claim that their case is identical to those who had filed the Application before Tribunal inasmuch as appointments of the respondents were also cancelled by the same order dated June 22, 1987 and, therefore, there is no reason to deny the same treatment which was meted out to the said persons, as denial thereof would amount to invidious discrimination which is anathema to the right of equality enshrined under Article 14 of the Constitution of India.

It is of interest to note that both the sides, in support of their respective submissions, have referred to certain judgments and the reading whereof would demonstrate that in certain cases benefit of a particular judicial pronouncement is extended to those who are identically situated on the principle of equality. On the other hand, there is a line of judgments denying such a benefit to the second group which approaches the Court afterwards, even when the said second group is similarly situated as the persons belonging to the first group. However, there is no conflict between the two sets of cases. In order to find out the principles laid down on the basis of which benefit of the earlier judgment is extended to those coming subsequently and the situations where such benefit is denied, we will have to undertake a journey into these details and lay down clear parameters.

....Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and

acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim. However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma & others vs. Union of India) (supra). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence.

Viewed from this angle, in the present case, we find that the selection process took place in the year 1986. Appointment orders were issued in the year 1987, but were also cancelled vide orders dated June 22, 1987. The respondents before us did not challenge these cancellation orders till the year 1996, i.e. for a period of 9 years. It means that they had accepted the cancellation of their appointments. They woke up in the year 1996 only after finding that some other persons whose appointment orders were also cancelled got the relief. By that time, nine years had passed. The earlier judgment had granted the relief to the parties before the Court. It would also be pertinent to highlight that these respondents have not joined the service nor working like the employees who succeeded in earlier case before the Tribunal. As of today, 27 years have passed after the issuance of

cancellation orders. Therefore, not only there was unexplained delay and laches in filing the claim petition after period of 9 years, it would be totally unjust to direct the appointment to give them the appointment as of today, i.e. after a period of 27 years when most of these respondents would be almost 50 years of age or above.....

13. Applying the parameters laid down by the Honourable Supreme Court in the above decision, in the case of appellants in W.A. Nos. 1071 and 1072 of 2016, they have approached this Court within a period of six months upon hearing that similarly placed persons who have filed W.A. No. 81 of 2015 etc., have got their service regularised by entering into a compromise memo with the respondents/TANGEDCO. Such delay of six months in approaching this Court, in our view, is not enormous or inordinate to reject the relief sought for in the writ petitions which are the subject matter of W.A. Nos. 1071 and 1072 of 2016. It is also to be pointed out that even at the time when the compromise was entered into between the appellants in W.A. No. 81 of 2015 etc., batch and the respondents/ TANGEDCO on 14.10.2015, the appellants and the writ petitioners herein were working in various departments of TANGEDCO either on consolidated pay basis or daily wage employees etc., Therefore, we hold that the appellants as well as the writ petitioners are entitled to the benefit of the compromise memo which was recorded by this Court in the Judgment dated 14.10.2015 in W.A. No. 81 of 2015 etc., batch. The compromise memo referred to above has to be extended in favour of the appellants and the writ petitioners on the touchstone of principles of equity.

14. In the result, the orders dated 20.06.2016 passed in WP Nos. 20849 and 20850 of 2016 are set aside and the Writ Appeal Nos. 1071 and 1072 of 2016 are allowed. Consequently, all the writ petitions are also allowed. There shall be no order as to costs. All the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rsh

To

1. The Chairman cum Managing Director
TANGEDCO Limited
No.144, Anna Salai
Chennai - 600 002

2. The Chief Engineer/Personel
TANGEDCO Limited
No.144, Anna Salai
Chennai - 600 002

3. The Commissioner
Employment and Training
Guindy, Chennai

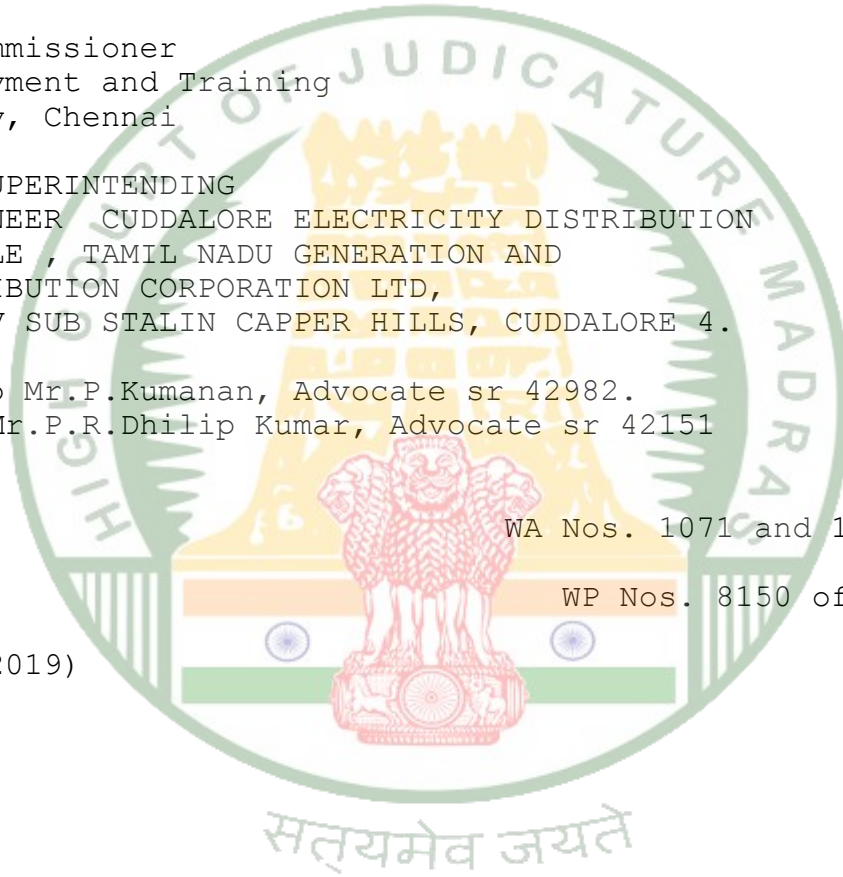
4. THE SUPERINTENDING
ENGINEER CUDDALORE ELECTRICITY DISTRIBUTION
CIRCLE , TAMIL NADU GENERATION AND
DISTRIBUTION CORPORATION LTD,
230 KV SUB STALIN CAPPER HILLS, CUDDALORE 4.

+70 CCS to Mr.P.Kumanan, Advocate sr 42982.

+1 CC to Mr.P.R.Dhilip Kumar, Advocate sr 42151

WA Nos. 1071 and 1072 of 2016
and
WP Nos. 8150 of 2016 etc.,

GJII(CO)
SP(14/06/2019)



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