

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.15446 of 2018

R.Nisha

..Petitioner

vs

1.The Commissioner
Commissioner of Labour
D.M.S.Compound,
Teynampet,
Chennai-600 006.

2.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam High Roads,
Nungambakkam, Chennai-600 034.

3.The Assistant Commissioner of Labour,
Social Security Scheme,
Tamil Nadu Construction Workers Welfare Board Building,
Backside to ITI.
Chennimalai Road,
Erode-9.

..Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the second respondent to give preference to the petitioner while recruiting new staffs for the post of Office Assistant and Computer Operator based on the petitioner's representation dated 30.05.2018 and no adverse action against the petitioner.

For Petitioner : M/s.L.Rajendran

For Respondents : M/s.R.S.Selvam
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the second respondent to give preference to

the writ petitioner while recruiting new staffs for the post of Office Assistant and Computer Operator based on the petitioner's representation dated 30.05.2018.

2.The Second respondent is Tamil Nadu Construction Workers Welfare Board which is a statutory Body. It is needless to state that all appointments are to be made only in accordance with the recruitment rules in force. All eligible persons shall be given opportunity to participate in the open competitive process. Equal opportunity for employment is a constitutional mandate. Thus, the authorities competent while undertaking the process of selection cannot deviate the procedures and the rules for recruitment. Preference as such cannot be claimed by the writ petitioner for appointment. Of course, the rule of reservation as contemplated under the rules are to be followed scrupulously. The writ petitioner also shall participate in the process of selection along with the other candidates, if she is otherwise qualified in accordance with the recruitment notification, if any, issued by the respondents. By filing a writ petition, the writ petitioner cannot seek any preference for appointment.

3. Such preference can never be granted either by the courts or by the competent authorities while undertaking process of selection. In this regard, this Court cannot direct the authorities even for granting relief of considering the writ petition. The writ petitioner has to establish his legal right.

4. In the absence of any such legal right, no direction even to consider the representation can be granted by the courts under Article 226 of the Constitution of India.

5. In this view of the matter, the writ petitioner has not established even a semblance of legal right so as to consider the relief as such sought for in this writ petition. However, it is made clear that if the writ petitioner is otherwise qualified, the writ petitioner is at liberty to participate in the recruitment whenever the process is undertaken by the competent authorities.

6. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

kmm

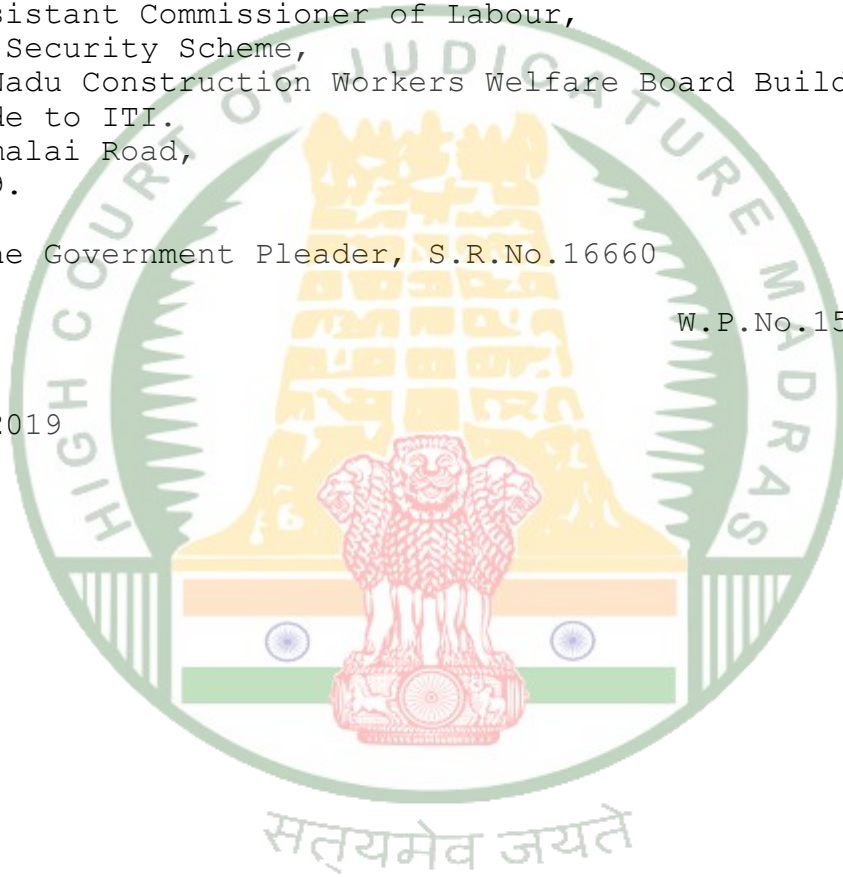
To

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+1cc to the Government Pleader, S.R.No.16660

W.P.No.15446 of 2018

GJII(CO)
CS/29/03/2019



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