

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.11.2019
CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.11809 of 2017

Venkatachalam
S/o.Maran

.. Petitioner

-vs-

1.The Chairman,
Tamil Nadu Electricity Board,
Mount Road, Chennai-6.

2.The Superintendent of Engineer,
TANGADCO,
Tamil Nadu Generation and Distribution Corporation,
Namakkal District. ... Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus directing the
respondents to regularize the petitioner who is a contract
labourer in the 2nd respondent from 01.07.2013 onwards.

For Petitioner : Ms.R.Deepa

For Respondents : Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.

ORDER

The relief sought for in the present writ petition is for a
direction to direct the respondents to regularise the services
of the writ petitioner in the services of the Board.

2.The petitioner states that he was engaged as Contract
Labourer in the Tamil Nadu Electricity Board at Rasi Puram. The
petitioner states that he had been allotted work order under the
Scheme 'DLW' estimate for providing separate feeder to the
Booster Station at Mettalla in netalla Operation and Maintenance
Section. Citing the work order, the petitioner claims that he
is entitled to be regularised in the services of the Tamil Nadu
Electricity Board.

3.The affidavit filed in support of the writ petition reveals that the petitioner was engaged as Contract Labourer and at no point of time, he was appointed as Contract Labourer by the competent authorities by the Tamil Nadu Electricity Board. The document filed in support of the writ petition also reveals that the petitioner himself was a contractor and was executing works allotted by the Tamil Nadu Electricity Board.

4.Paragraph 7 of the affidavit states that even after completion of allotted work, Electricity Board is not making the payment in time. He claims payment in respect of the works allotted and completed. Thus, it makes clear that the writ petitioner himself was a contractor and entered into an agreement with the Tamil Nadu Electricity Board.

5.Regularisation or permanent absorption cannot be granted in violation of the recruitment rules in force. All payments are to be made strictly in accordance with the law and rules in force. The Tamil Nadu Electricity Board, being a State, cannot grant the benefit of regularisation in violation of the recruitment rules in force. Equal opportunity in public employment is the constitutional mandate. All appointments are to be done by providing equal opportunity to all the eligible candidates, who all are aspiring to secure public employment through open competitive process. Thus, the constitutional rights of all the eligible persons to participate in the recruitment process cannot be infringed by granting regularisation and permanent absorption in respect of irregular and illegal appointments.

6.A Constitutional Bench of the Hon'ble Supreme Court in the case of Secretary, State of Karnataka and others Vs. Umadevi and others reported in (2006) 4 SCC 1, settled the principles by stating that irregular and illegal appointments cannot be granted, but grant of permanent absorption or regularisation of such appointments to be treated as a back door appointment and therefore, the benefit of regularisation cannot be granted. The judgment of the Constitutional Bench is reiterated in many subsequent judgments by the Hon'ble Supreme Court. Now, it is settled that regularisation or permanent absorption all are to be granted strictly in accordance with the law and rules and the persons, who were entered into public services through back door, must be allowed to go from the door through which they have entered into. These being the principles to be followed, the petitioner, who was claiming to be a contract labour cannot

seek permanent absorption and it is left open to him to participate in the process of recruitment, if he is otherwise in accordance with law and rules in force.

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

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

abr

To

- 1.The Chairman,
Tamil Nadu Electricity Board,
Mount Road, Chennai-6.
- 2.The Superintendent of Engineer,
TANGEADCO,
Tamil Nadu Generation and Distribution Corporation,
Namakkal District.

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