



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5575 of 2012

and

M.P (MD) .No.3 of 2012

WEB COPY

1.A.H.Syed Ibrahim
2.P.Balasubramanian
3.S.Raman

... Petitioners

-Vs-

1.Tamil Nadu Generation and Distribution Corporation Ltd.,
Represented by its Chairman Cum Managing Director
144, Electricity Avenue
Anna Salai, Chennai 600 002

2.The Chief Engineer (Personnel)
Represented by its Chairman Cum Managing Director
144, Electricity Avenue
Anna Salai, Chennai 600 002

... Respondents

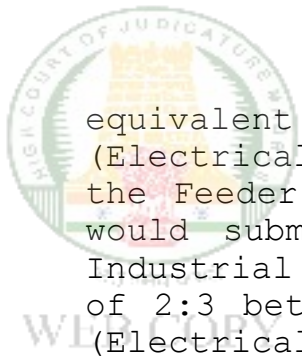
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the respondents in connection with proceedings viz., (Per.) (FB) TANGEDCO proceeding No.1 (Administrative Branch) dated 04.01.2012 and quash the same and direct the respondents herein to promote the Junior Engineers Grade-II to the post of Junior Engineers Grade-I on the basis of the ratio 2:3 (Assistant Engineers/Electrical : Junior Engineers Grade-I/Electrical) in Distribution Sections and in the ratio or 2:2 in the other areas and direct the 1st respondent not to directly recruit Assistant Engineers/Electrical any further, without first restoring the aforesaid ratio and in any event without honouring the assurances recorded in M.P.No.1 of 2008 in W.P.No.18012 of 2008 pronounced on 22.10.2008.

For Petitioners : Mr.Anwar Sameem
For Respondents : Mr.T.Sakthi Kumaran

ORDER

The proceedings dated 04.01.2012, namely the Recruitment notification is under challenge in the present Writ petition.

2.Admittedly, all the writ petitioners are serving in the cadre of Junior Engineer Grade II and their next avenue for promotion is Junior Engineer Grade-I (Electrical). The said post is



equivalent to and interchangeable with Assistant Engineer (Electrical). The post of Junior Engineer Grade-I is filled up from the Feeder Cadre of Junior Engineer Grade-II. The learned counsel would submit that as per settlement under Section 12(3) of the Industrial Disputes Act, it has been agreed that the existing ratio of 2:3 between Assistant Engineer (Electrical) and Junior Engineer (Electrical) post to Distribution Sections and 2:2 in other areas will be maintained. The learned counsel would further submit that when the respondents attempted to upset the imbalance by directly recruiting 300 Assistant Engineers in the year 2007, W.P.No.18012 of 2008 was filed before the Principal Seat of Madras High Court. In the said writ proceedings, an assurance was held out by the respondents by filing a counter that they could set right the imbalance. But, there was already a backlog vacancies of 914 posts which was to be filled up by promoting Junior Engineer Grade-II. This Court disposed of the Writ petition in view of the assurance given by the respondents. But, contrary to the said assurance and binding nature of the settlement, the respondents issued the impugned proceedings vide (Per.) (FB) TANGEDCO proceeding No.1 (Administrative Branch) dated 04.01.2012 proposing to fill up 450 vacancies in the post of Assistant Engineer (Electrical) fully through direct recruitment which is challenged by the Association ie. Tamil Nadu Electricity Board in W.P(MD).No.1413 of 2012. The filing of the writ petition by the Association in a service matter will not foreclose the petitioners' right. Hence, the petitioners have come up with the present Writ petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The learned counsel appearing for the petitioners as well as the respondents would submit that the issue involved in this Writ petition has already been decided by this Court in W.P.No.25224 of 2018, dated 11.03.2019, relied on Paragraph Nos.6, 9 & 10, which read as follows:

"6. The learned counsel for the writ petitioner solicits the attention of this Court with reference to the terms of settlement and clause - 12 states that " the existing ratio of 2:3 between Assistant Engineers and Junior Engineers Grade-I posted to Distribution Sections and existing ratio (2:2:1) adopted in other areas will also continue as it will be reviewed after due discussions. However, this will be subject to the outcome of the SLP pending before the Hon'ble Supreme Court of India till then, status-quo will continue."

9. In view of the fact that the next Avenue for promotion to the writ petitioners is to the post of Junior Engineer Grade I. they are absolutely not connected with the Direct Recruitment to be made to the post of Assistant Engineers. Thus, as far as the impugned notification is



concerned, the writ petitioners are not aggrieved persons and they cannot stall the recruitment to be made to the post of Assistant Engineer directly. In respect of their grievance in relation to the promotion to the post of Junior Engineer Grade I, adequate steps are taken and the respondents have provided in the counter itself that promotion process are initiated and they have taken steps to grant promotion as per the seniority and as per the Rules in force. This being the submission made on behalf of the respondent, the present writ petition deserves no further consideration and the respondents are directed to consider the case of the writ petitioners for grant of promotion to the post of Junior Grade - I and as far as the direct Recruitment for the post of Assistant Engineer is concerned, the writ petitioners are not aggrieved persons as they have not established any right in respect of the direct Recruitment process undertaken by the respondents.

10. This being the factum, no further adjudication needs to be entertained in respect of the grounds raised in the present writ petition and accordingly, writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed".

5. The petitioners also stand in the same footing as that of the petitioners in the above Writ petition. In terms of the above order dated 11.03.2019 in W.P.No.25224 of 2018, the respondents are directed to promote the writ petitioners to the post of Junior Grade-I as it has been admitted by them that the process has been commenced by way of counter in W.P.No.25224 of 2018 within a period of twelve (12) weeks by strictly following the seniority and as far as the direct Recruitment for the post of Assistant Engineer is concerned, the writ petitioners are not aggrieved persons as they have not established any right in respect of the direct Recruitment process undertaken by the respondents.

6. With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

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/ /2020

Sub Assistant Registrar(CS)

msa



TO

1.The Chairman Cum Managing Director
Tamil Nadu Generation and Distribution Corporation Ltd.,
144, Electricity Avenue
Anna Salai, Chennai 600 002

2.The Chairman Cum Managing Director
The Chief Engineer (Personnel)
144, Electricity Avenue
Anna Salai, Chennai 600 002

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-104518[F] dated
11/12/2019)

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avs (CO)
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