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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)Nos.3830 and 3853 of 2014
and
M.P.(MD).Nos.1,1,2 and 2 of 2014

**W.P.(MD).No.3830 of 2014**

C.T.Muthukumaran .. Petitioner

Vs.

1.The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.800, Anna Salai,
Chennai-600 002.

2.The Director of Technical Education,
Tamil Nadu
Guindy,
Chennai. ... Respondents

PRAYER: Writ Petitions under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the selection list for the post of Technical Assistant (EEE) published by the respondent corporation on 24.02.2014 on the file of the first respondent and quash the same and consequently, direct the first respondent to conduct recruitment afresh for the post of Technical Assistant (EEE).

**W.P.(MD).No.3853 of 2014**

Balasubramaniyan ... Petitioner

Vs.

1.The Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO)
Represented by its Chairman
144, Anna Salai,
Chennai-2.

2.The Director of Technical Education,
Tamil Nadu
Guindy, Chennai. ... Respondents

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PRAYER: Writ Petitions under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to TNEB Service Regulation on the file of the 1st respondent and Quash the Regulation 89(d)(i) of portion mentioning the "selection of candidate shall be made by the appointing authority based on the performance in the qualifying examinations or by awarding marks for the performance in the qualifying examination" with regard to the petitioner for the post of Technical Assistant and consequently direct the 1st respondent Board to consider the petitioner's candidatures in the ensuring recruitment for the post of Technical Assistant (E.E.E) by direct recruitment 2013-14 in the light of the judgment of the Apex Court in SLP Nos.5285 - 5328 of 1996.

For Petitioner in all cases : Mr.P.Ganapathi Subramanian

For R1 in all cases : Mr.G.Kasinathadurai

For R2 in all cases : Mr.K.Mu.Muthu
Additional Government Pleader

**COMMON ORDER**

The selection list for appointment to the post of Technical Assistant (EEE) by direct recruitment in the Tamilnadu Electricity Board, is under challenge in the present repetition.

2.The main contention of the writ petitioner is that they were sponsored to undergo apprenticeship training with the Tamilnadu Electricity Board and the Director of Apprenticeship, under the provision of the Apprenticeship Act, sponsored the writ petitioners. The Electricity Board sponsored the candidates by giving preference to the persons, who had undergone apprenticeship training with the Board. However the selection which is under challenge was concluded, on the basis of an open competitive process and no preference was given for the apprenticeship candidates. Thus, the writ petitioners are constrained to move the present writ petitions.

3.This Court is of the considered opinion that the apprenticeships are provided preference by various Government Organizations as well as by the Private Companies, based on the sponsorship made by the Director of apprenticeship under the provisions of the Apprenticeship Act. The very purpose and object of the Apprenticeship Act is to provide training to the candidates after acquiring qualification and mere registration with the Directorate of Apprenticeship Training or sponsoring the name for the apprenticeship training or completion of apprenticeship training would not confer any right to secure or claim appointment.

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4.Apprenticeship training is a facility provided under the Central Act, in order to impart training to the qualified candidates, mere providing of the trainings would not be a ground to claim appointment. Apprenticeship trainings are provided based on the seniority by the Directorate of apprenticeship in Private Companies, Government Boards and Corporations. Thus, it is a chance and such a chance provided to the apprenticeship trainees cannot confer any legal right to secure public appointment. In the event of providing appointment based on the apprenticeship training, undoubtedly, the equality class enunciated in the constitution is violated.

5.Equal opportunity in public employment is a constitutional mandate. Only in the event of conducting an open competitive process, equal opportunity can be provided. Apprenticeship trainings are provided based on the registration of candidates, may not preferred registered their names under the Apprenticeship Act. Thus, the open competitive process must be the method of recruitment, which is now being followed by the TamilNadu Electricity Board for all appointments. Under these circumstances, the grounds raised by the writ petitioners that they should be given preference as they have completed apprenticeship training in the Board cannot be accepted, all the qualified persons must be provided with an opportunity to participate in the open competitive process and the writ petitioners are also entitled to participate in the said process along with all other qualified candidates. In the present case, the writ petitioners had participated, however, not selected. Having accepted the terms and conditions of the notifications and after participating in the process of selection, the condition stipulated in the notification cannot be challenged. The Supreme Court also held in many judgements that the candidates, who accepted the terms and conditions and participated in the process of selection and thereafter they cannot challenge those condition and such writ petitions cannot be entertained at all. They cannot approbate and reprobate. This being the principles to be adopted, now, the writ petitioners cannot challenge the selection list after participation in the process of selection, even otherwise also, mere completion of apprenticeship training would not confer any right on the writ petitioners to claim appointment. This being the principles to be followed, there is no infirmity in respect of the procedure followed for selection to the post of Technical Assistant (EEE) in the TamilNadu Electricity Board. The writ petitioners have not established any acceptable legal grounds for the purpose of considering their relief as such sought for in the present writ petitions.

6.This apart, the selection was conducted in the year 2013-14 and the selected candidates were appointed and working for more than 5 and ½ years.

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7.With the above direction, these Writ Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To
1.The Tamil Nadu Electricity Board,
Represented by its Chairman,
No.800, Anna Salai,
Chennai-600 002.

2.The Director of Technical Education,
Tamil Nadu
Guindy,
Chennai.

+1 CC to M/s.SPL GP ( SR-81775[F] dated 14/08/2019 )

+1 CC to M/s.G.KASINATHA DURAI, Advocate ( SR-81735[F] dated 14/08/2019 )

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