

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2020

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.16093 of 2016

1 S.Gnanagurubalanathan
S/o.Subburaj,
North Street, Ammachyapuram Post,
Andipatti Taluk Theni District ... PETITIONER

Vs.

1 The Chairman
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Anna Salai Chennai-2.

2 The SPO / Recruitment,
Tamil Nadu Generation and Electricity
Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
Anna Salai Chennai-2 ... RESPONDENTS

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to give first preference for filling up the post of Assistant Engineer (Electrical & Electronics) in the respondents corporation by giving first preference, who completed the training in the respondents corporation.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.Karthik Rajan for T.N.E.B.

O R D E R

The writ petitioner has completed apprenticeship with the respondent Corporation for one year at Sivagangai Circle. But the respondent authority without considering the apprenticeship, called for applications to the post of Assistant Engineer (Electrical and Electronics) by way of direct recruitment and conducted written examination. Therefore, the petitioner has

filed the present writ petition before this Court for issuance of writ of mandamus directing the respondents to give first preference to the petitioner in filling up the post of Assistant Engineer (Electrical & Electronics) in the respondents corporation.

2. The second respondent filed counter affidavit wherein it is stated that Regulation 89 (d) (i) of the Service Regulations, inter alia, provides that selection shall be made by the appointing authority on the results of the written examination or interview or based on the performance in the qualifying examination prescribed for the respective post or by awarding marks for the performance in the qualifying examination or by combining any of the method as considered suitable. Based on the Regulation 89 of the T.N.E.B. Service Regulations, Government orders, the Advocate General has opined that the apprentice candidates must also appear in the competitive written examination as per G.O.Ms.No.44, dated 11.3.2015. Thereafter, a committee was constituted in (Per) CMD TANGEDCO Proceedings No.64, Administrative branch, dated 30.03.2015 comprising the Director (Distribution), Secretary and the CE/Personnel and the Committee considered, among other things that the statutory provisions and the mode adopted by the Tamil Nadu Public Service Commission for recruitment for Assistant Engineer/ Civil in Highways Department of the Government of Tamil Nadu including the provision for apprentice candidates in the TNPSC Notification, i.e. "Provided that other things being equal, preference shall be given to those who have undergone one year Apprenticeship Training under the Government of India Scheme or the State Government Apprenticeship Scheme" and recommended that the posts by direct recruitment may be filled up by advertisement and also from the candidates sponsored by the employment exchange; that the marks obtained in the competitive written examination to be worked out for 85% and for viva-voce interview - 15% and that the selection may be on merits of above marks and communal roaster and other things being equal, preference should be given to the apprentice candidates who have completed apprenticeship in erstwhile TNEB, TANGEDCO/TANTRANSCO. While so, a batch of writ petitions in W.P.No.1048 of 2016, etc. have been filed before this Court challenging the recruitment notification. When the matter was taken up by the First Division Bench in Writ Appeal Nos.267, 235 and 744 of 2017, the Division Bench of this Court refused to grant any interim orders and allowed the TANGEDCO to proceed with the recruitment process. Thereafter, the issue of considering apprentices were again considered by the Board of Directors and accordingly, the following orders were issued in (Per.) (FB) TANGEDCO proceeding No.08, dated 31.8.2017:

- (1) All apprentices who have undergone training in the Board have to go through the process of selection provided in

the Regulations. Pursuant to G.O.Ms.No.44, dated 11.03.2015, the Board has decided to conduct written examination for all categories of candidates. Thereafter, the apprentice candidates must also appear in the competitive written examination.

- (2) Other things being equal apprentice will be given preference in appointment as per the law laid down by the Hon'ble Supreme Court of India in U.P. State Road Transport Corporation Vs. U.P. Parivam Shishukha (1995) 2 SCC 1 and clarified in U.P. Rajya Vidyut Parishad Apprentice Welfare Association and Anr. Vs. State of Uttar Pradesh and others 2000 LLR 969 (SC) = 2000 (3) SCR 1201, as has been hitherto followed.
- (3) Age relaxation will be allowed to the extent of the actual period of apprentice training undergone in the TNEB/TANGEDCO/ TANTRANSCO.

2(i) The Board after careful consideration and taking into account the direction of the Hon'ble High Court, has framed an exclusive policy with regard to apprentice prior to and after the amendment to Section 22(1) of the Apprentices Act, 1961 vide (Per. vide (Per.) (FB) TANGEDCO proceeding No.08, dated 31.8.2017. Moreover, the apprentices were given preference in law laid down by the Hon'ble Supreme Court of India in U.P. State Road Transport Corporation Vs. U.P. Parivahan Nigam Shishukha (1995) 2 SCC 1 and clarified in U.P. Rajya Vidyut Parishad Apprentice Welfare Association and Anr. Vs. State of Uttar Pradesh and others (2000 LLR 869 (SC) = 2000 (3) SCR 1201) as has been hitherto followed and also age relaxation has been allowed to the extent of the actual period of apprentice training undergone in the TNEB/TANGEDCO/TANTRANSCO.

2 (ii) The second respondent also filed additional counter affidavit by clarifying the marks secured by the selected candidates. In the affidavit, it has been stated that the writ petitioner is eligible for general quota and also for SC (General) quota only. The competitive examination marks were published on 30.7.2016 and the cut off marks for appearing viva voce/ interview was published in the TNEB website on 27.1.2017. The petitioner in the written examination has secured 20.333 marks. The cut-off marks prescribed for viva voce / interview in respect of general quota is 34.67 and for SC (General) Non priority category is 24.33 respectively. The petitioner secured less marks than the cut-off marks prescribed and therefore, he was not called for viva voce / interview and consequently, he was not selected for the aforesaid post.

3. In the additional counter affidavit filed by the second respondent, it is clearly stated that based on the law laid down by the Hon'ble Supreme Court in the decisions cited supra and pursuant to the directions issued by the Division Bench of this Court in Writ Appeal Nos.267, 235 and 744 of 2017 the respondent Board issued proceedings No.08, dated 31.8.2017 to conduct written examination for all categories of candidates as per the selection process provided in T.N.E.B. Service Regulations. As per G.O.Ms.No.44, dated 11.3.2015, apprentice candidates must also appear in the competitive written examination. The writ petitioner also participated in the competitive examination and secured less marks than the cut off marks prescribed and therefore, he was not selected. Therefore, the writ petitioner cannot claim any preference in the selection process conducted by the respondent Board and consequently, the writ petition fail.

4. Accordingly, the writ petition stands dismissed as devoid of merit. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

- 1 The Chairman
Tamil Nadu Generation and Electricity Distribution
Corporation Ltd.,
Tamil Nadu Electricity Board, Anna Salai Chennai-2.
- 2 The SPO / Recruitment,
Tamil Nadu Generation and Electricity Distribution
Corporation Ltd.,
Tamil Nadu Electricity Board, Anna Salai, Chennai-2.

+1cc to Mr.C.Prakasam, Advocate, SR.No.2559

+1cc to Mr.Karthickrajan , Advocate, SR.No.2271.

W.P.No.16093 of 2016

SJ(CO)

CSR: 18.02.2020