



THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **30.07.2020**
CORAM
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.8300 of 2020

and

W.M.P (MD)Nos.7692, 7694, 7696, 7698 of 2020

and

W.P (MD)No.8304 of 2020

and

W.M.P (MD)Nos.7701, 7707, 7714 & 7715 of 2020

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W.P (MD)No.8300 of 2020

M.Sethupathy

...Petitioner

-Vs-

1.The Chairman Cum Managing Director,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
N.P.K.R.R.Maligai,
Chennai-600 002.

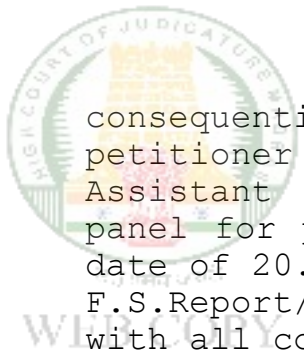
2.The TANGEDCO,
Rep. by the Secretary (Full Additional Incharge),
No.144, Anna Salai,
N.P.K.R.R.Maligai,
Chennai-600 002.

3.The Chief Engineer (Personnel)
TANGEDCO,
No.144, Anna Salai,
N.P.K.R.R.Maligai,
Chennai-600 002.

4.The Superintending Engineer,
O/o.Superintending Engineer,
Madurai Electricity Distribution Circle,
TANGEDCO,
Madurai District-600 007.

...Respondents

Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned proceedings passed by the second respondent in (PER) FB TANGEDCO Proceedings No.18 (SECRETARIAT BRANCH) dated 02.06.2020 and quash the same as illegal in so far as amending Regulations by prescribing a minimum number of years of service to be rendered by the officials in certain feeder categories to become eligible for their first two promotions is concerned, and



consequently direction directing the respondents to promote the petitioner from the post of Junior Assistant to the post of Assistant in light of the suitability report and preparation of panel for promotion to the post of Assistant (ADM) for the crucial date of 20.03.2019 in Letter No.003663/SE/DC/Mdu/ADO/Adms/ADM1/A1/F.S.Report/2019 dated 12.06.2019 on the file of the Respondent No.4 with all consequential benefits.

For Petitioner : Mr.I.Pinaygash
For Respondents : Mr.S.R.Rajagopal,
Additional Advocate General
assisted by
Mr.T.Sakthi Kumaran,
Standing counsel

W.P (MD)No.8304 of 2020

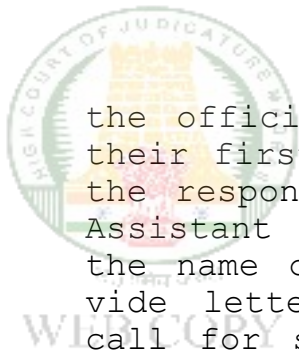
N.Kanagaraj

...Petitioner

-Vs-

- 1.The Chairman Cum Managing Director,
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai,
Chennai-600 002.
 - 2.The Tamil Nadu Generation and Distribution
Corporation Limited,
Rep. by its Secretary (Full Additional Incharge),
No.144, Anna Salai,
Chennai-600 002.
 - 3.The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation Limited,
No.144, Anna Salai,
Chennai-600 002.
 - 4.The Superintending Engineer,
Sivagangai Electricity Distribution Circle,
Sivagangai-630 562.
- ...Respondents

Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned proceedings passed by the second respondent in (PER) FB TANGEDCO Proceedings No.18 (SECRETARIAT BRANCH) dated 02.06.2020 and quash the same as amending Regulation 98(1) bb of the Tamil Nadu Electricity Board Service Regulations by prescribing a minimum number of years of service to be rendered by



the officials in certain feeder categories to become eligible for their first two promotions is concerned, and consequentially direct the respondents to promote the petitioner from the post of Junior Assistant (Accounts) to the post of Accounts Supervisor by including the name of the petitioner in the letter of the third respondent vide letter No.035574/394/G.29/G.292/2020-1, dated 18.06.2020 and call for suitability and promote as Accounts Supervisor with all consequential benefits.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.R.Rajagopal,
Additional Advocate General
assisted by
Mr.T.Sakthi Kumaran,
Standing counsel

COMMON ORDER

The impugned rule i.e., Service Regulation called 'Amending Regulations' (PER) FB TANGEDCO PROCEEDINGS NO.18, dated 2nd June 2020, which seeks to amend Regulations 91(3) of the existing Tamil Nadu Electricity Board Service Regulations, is under challenge.

2. In view of the common prayer sought for in both the writ petitions on similar grounds, these two writ petitions are taken up together and with the consent of both sides, these writ petitions are being disposed of at the admission stage itself, by this common order.

3. In Tamil Nadu Electricity Board presently called as "Tamil Nadu Generation and Distribution Corporation Limited," the method of appointment for every cadre of employees, the qualification, age and eligibility criteria, fixed for promotion to the next level is in the Regulations called "Tamil Nadu Electricity Board Service Regulations."

4. In this context, it is the experience claimed to have been gained by the TANGEDCO that, in some of the feeder category post, employees are able to get very quick promotion within a span of one or two years to the next higher cadre. Thereby without having enough experience, they have been given promotion to the next higher level, hence that will have impact on the overall functioning of the corporation. Therefore, TANGEDCO thought it fit to provide some minimum period of experience and essential qualifications to be fulfilled for promotion to the next higher cadre or category or posts. Accordingly, TANGEDCO thought it fit to make an amendment in the "Tamil Nadu Electricity Board Service Regulations." As a result, the present impugned amending Regulations came to be approved and published by the TANGEDCO on 02.06.2020 by way of (PER) FB TANGEDCO



PROCEEDINGS No.18.

5. *Inter alia* the amending provisions were made to amend Regulations 91(3) of the Tamil Nadu Electricity Board Service Regulations and in order to appreciate the exact amendment sought to be made, the relevant portion of the impugned proceedings is extracted hereunder:-

"2. Accordingly, in exercise of the powers conferred by Section 79(c) of the Electricity (Supply) Act, 1948 (Central Act 54 of 1948), read with Section 185 of the Electricity (Supply) Act, 2003 and G.O.Ms.No.100, Energy (B2) Department, dated 19.10.2010, the Tamil Nadu Generation and Distribution Corporation Limited (formerly Tamil Nadu Electricity Board) makes the following amendments to regulation 91(3) of the Tamil Nadu Electricity Board Service Regulations."

6. Therefore, by virtue of this amendment, now a minimum experience has been prescribed for various posts or category which are feeder category for the next higher post for promotion and such prescription of minimum experience would be applicable for every incumbent who joined in the TANGEDCO service in lower level post for atleast two initial promotions.

7. The said amendment of the impugned proceedings is under challenge now in these writ petitions where Mr.T.Lajapathi Roy and Mr.I.Pinaygash, learned counsel for the petitioners, among various grounds, have insisted upon only two major grounds under which they sought to challenge the validity of the impugned proceedings.

8. The first ground, according to the learned counsel for the petitioners is that, before making this amendment in the service regulations, the employee union/trade union who are the stakeholders, should have been consulted in view of Section 9(a) of the Industrial Disputes Act. The second ground, according to the learned counsel for the petitioner is that, in the impugned proceedings, dated 02.06.2020, it has not been stated whether the amending Regulations will have prospective effect or retrospective effect. In this context, it is the further submission of the learned counsel for the petitioner that, if the amending regulations are given retrospective applicability, then it will have a adverse impact on various employees including the petitioners before this Court, as these petitioners claimed to have been eligible to get promotion already prior to the amending rule came to be effected and therefore, if it has retrospective effect, the import of the amending rule will be made applicable to these employees, in that case that will have very adverse effect and therefore, on that ground also challenge is made in these writ petitions. Apart from these two grounds, no other ground is specifically urged by the learned counsel for the petitioners before this Court towards

<https://hccs.lawsonline.com/hccs/lawsonline>

challenging the impugned Regulations.



9. In order to meet the said arguments advanced by the learned counsel for the petitioners, Mr.S.R.Rajagopal, learned Senior Counsel appearing for the respondent TANGEDCO would make submissions stating that, insofar as the applicability of the rule as to whether it will have prospective application or retrospective application is concerned, the rule certainly will come into effect only from the date on which it is issued i.e., from 02.06.2020 and not prior to that. Therefore, the second ground raised by the learned counsel for the petitioners has been cleared by the learned Senior Counsel appearing for the respondents that the rule will come into effect only from 02.06.2020 and not prior to that.

10. Insofar as the first ground as to whether the prior consultation is must or not before such amendment in Service Regulation is concerned, the learned Senior Counsel appearing for the respondent TANGEDCO, by relying upon a decision, has submitted that, such consultation is not necessary because, the labour law especially the Industrial Disputes Act will not be applicable to the employees covered under these Regulations, therefore, the provisions of the Industrial Disputes Act would not come against these service regulations, which is specifically governing service conditions of employees of the TANGEDCO. Therefore, such a consultation as has been contemplated under such provisions of the Industrial Disputes Act is not required to be followed while making any service Regulations for the TANGEDCO employees.

11. After such a counter argument was made by the learned Senior Counsel appearing for the respondents, the learned counsel for the petitioners have not insisted the first ground of prior consultation with the employees union or trade union.

12. Insofar as the other ground as to whether it will have a retrospective effect or prospective effect is concerned, the position has been clarified by the learned Senior Counsel appearing for the TANGEDCO and the petitioner counsel have expressed satisfaction to that effect also.

13. In view of the aforesaid arguments advanced by both sides, which are more clarificatory in nature, I think both sides have come to an understanding, atleast *prima facie* that the impugned Regulations will come into effect only from 02.06.2020 and it will not have any retrospective effect to press into service the amending rule or regulations for whatever the future action to be undertaken by TANGEDCO for giving promotions to various employees at various cadre is concerned. While making such a move for giving promotions, if any grievance arises for the employees, by making the amending rule applicable to such promotions to be made in future is concerned, altogether it is a different issue or it is a different subject matter, for which, this Court feels that when such a cause of service arises, those issues can be agitated at the appropriate



time.

14. In view of the aforesaid discussions, this Court is inclined to dispose of these writ petitions with the following orders:-

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(i) that the impugned Regulations i.e., (PER) FB TANGEDCO Proceedings No.18, dated 02.06.2020 issued by the respondents TANGEDCO is not liable to be interfered with.

(ii) the said impugned Regulations shall come into effect prospectively only from 02.06.2020 and it will not have any retrospective effect.

(iii) In case any controversy arises, by virtue of that if any grievance arises for the employees in future at the time of getting the promotion to next higher cadre, that will altogether be a different issue and a different cause of action, hence that can very well be agitated by the employees in the manner known to law, if they are advised to do so.

15. With these orders, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Order made in
W.P.(MD)Nos.8300 & 8304 of 2020

Dated:

30.07.2020

AP(28/08/2020) 6P 1C