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W.P.No1157 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM:

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No1157 of 2015

1. R.Padmanadhan
2. S.Naveen Prabhu
3. P.Paneerselvam
4. A.Karuppusamy

...Petitioners

Vs

1. Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
Rep. By its Managing Director,
37, Mettupalayam Road,
Coimbatore – 43.

2. The General Manager,
Tamil Nadu State Transport Corporation,
(Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore – 43.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents to give the petitioners re-employment before appointing any new persons to the post of Junior Tradesman in the existing vacancies as per Section 25-H of the I.D. Act and allow the petitioners participate in the interview for appointment to post of Junior Tradesman by giving the petitioners age relaxation in upper age limit which they have



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undergone apprenticeship training and also by giving preference based on the petitioners earlier employment and apprenticeship training in their corporation, by making selection processes only in accordance with the directions issued by this Court in W.P.No.20290 of 2012 dated 27.08.2014 and appoint the petitioner as Junior Tradesman in the existing vacancies.

For petitioner : Mr.V.Porkodi
for Mr.R.Krishnaswamy
For respondents : Dr.A.Sundarvadhanan

ORDER

This writ petition is filed seeking a mandamus directing the respondents to re-employ all the petitioners prior to appointing any new person as Junior Tradesman in the existing vacancies under Section 25-H of the Industrial Disputes Act.

2. The facts in brief, as per the affidavit filed by the first petitioner on behalf of all the four petitioners, are as follows:

2.1 All the petitioners have passed SSLC, ITI and also NTC course.

2.2. The first petitioner joined as a Mechanic in Maha Kavi Bharathiar Transport Corporation (MKBTC) at Coonor Branch on 06.06.1996 on piece rate basis and continued thereby until he joined as Apprentice under the Apprentice



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Act in Ooty Depot – II on 14.01.1997.

2.3. After completion of apprenticeship training, he joined again in the same depot as a Mechanic on piece rate basis until 01.10.2000. The petitioners 2 to 4 were also working along with him as a Mechanic on various dates and continued to work till 01.10.2000.

2.4. The second petitioner also completed apprenticeship training from 11.12.1997 to 10.12.1998 in Ooty Depot – I and registered his NAC qualification with the employment exchange in 2002.

2.5. The third petitioner completed his training under the Apprenticeship Act in Mettupalayam Depot – II and he also registered his NAC qualification with the employment exchange on 23.04.2001.

2.6. The fourth petitioner also completed his two years training under the Apprenticeship Act in Lakshmi Machine works unit – I between 14.10.1994 and 13.10.1996 and he also registered his NAC qualification with the employment exchange. During November 2001 the petitioners were once again called and employed in Coonor Branch and Ooty Depot – I.

2.7. The first respondent corporation have made appointment to the post of Junior Tradesman in the year 1996 and the State of Tamil Nadu issued a ban order



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for making fresh recruitments in the year 2001 and lifted the ban only in the year 2006. The above said ban was lifted only for the post of Drivers and Conductors and not for the post of Junior Tradesman. In respect of Junior Tradesmans the ban was lifted only on 17.07.2006. However, the respondent Corporation has not filled the vacancies of the Junior Tradesman.

2.8. Even after lifting of the ban, the respondents did not conduct any recruitment, on account of which, the petitioners became ineligible due to over age i.e., benefits of relaxation of age limit was given to all the departments in respect of all the appointments in the Government service as well as Public Sectors.

2.9. Even though the Government had called for the names from the employment exchange for providing employment, the employment exchange did not sponsor the first petitioner's name on the ground that the petitioner became ineligible due to over age by three months. Though the second and the third respondents were called for interview, they were not considered on the ground that the second petitioner was over-aged and the third petitioner did not possess the requisite qualification.

2.10 The respondent Corporation had given advertisement dated



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02.11.2014 for the posts of Drivers, Conductors and Junior Tradesman giving relaxation in upper age limit for those who have undergone apprenticeship training under the Apprenticeship Act. The petitioners filed their applications and were called to attend the interview. However, they were not allowed to participate in the interview though the others were given appointment orders, the petitioners did not get any appointment order and it is further stated that the respondents were bound to give age relaxation to the extent of the period they worked as Mechanic in Coonor Depot.

2.11. Further, this Court in orders dated 27.08.2014 in W.P.No.20290 of 2012 and 19.12.2014 in W.P.No.33730 of 2014, held that the Junior Tradesman shall not be recruited based on oral interview alone and recruitment shall be made either by holding written examination or based on marks fixed for each post as per the qualification. It is further submitted that the respondents are trying to eliminate the petitioners and therefore sought for preferential appointment.

3. In view of the above facts, the writ petitioners before this Court have



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crossed the age for appointment even as on the date of filing this writ petition and it has been more than eight years. Though Section 25H of Industrial Disputes Act states as follows:

“25H. Where any workmen are retrenched, and the employer proposes to take into his employment any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.”

as on date, the petitioners must have crossed more that 50 years. The petitioner has crossed upper age for filing the application for recruitment for the post of Junior Tradesman and also including the relaxation given on account of ban long ago. There is nothing given in writing in favour of the petitioners by the respondent department that they will be considered for the post of Junior Tradesman whenever notification is published inviting applications for appointment to the post of Junior Tradesman.

4. In view of the above, this writ petition is disposed of directing the respondents to consider the applications, if any, for the post of Junior Tradesman in the next recruitment, in case, the petitioners have fulfilled the criteria



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throughout the process of recruitment and become eligible based on the merits.

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This writ petition is disposed of with the above directions.

01.11.2023

Internet: Yes

Index: Yes/No

vca

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