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W.P.(MD)No.14735 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14735 of 2023 AND
W.M.P.(MD)Nos.12429 & 12430 of 2023

1. B.Manikandan
 2. D.Sudharsan
 3. S.Asith Khan
 - 4.E.Rajapandi
 5. T.Kalimuthu
 6. X.Anthony Ashok
 7. X.Anthony Sujay Edwin Moses
 8. V.Joy Anu
 9. V.Sathesh Kumar
 - 10.G.Daniel Raj
 - 11.G.Daniel Rex
- ... Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
MSME Department,
Fort St. George,
Chennai – 9.



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2. The Industries Commissioner and
Director of Industries and Commerce,
Guindy,
Chennai – 32.

3. Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Park Town, VOC Nagar,
Chennai – 600 003.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Circular in Rc.No.3188/EDS1/2023 dated 09.02.2023 on the file of the respondent No.2 and quash the same as illegal insofar as not conducting direct recruitment to the post of Assistant Engineer (Industries) is concerned and consequently for a direction directing the respondents to fill up the vacant posts of Assistant Engineer (Industries) by way of direct recruitment through open advertisement following the rule of reservation within the time period stipulated by this Court.

For Petitioners : Mr.G.Anto Prince

For R-1 & R-2 : Mr.T.Villavankothai,
Additional Government Pleader.

For R-3 : Mr.J.Anandkumar,
Standing counsel.

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**ORDER**

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Heard the learned counsel on either side.

2. The case on hand pertains to the post of Assistant Engineer (Industries). The writ petitioners are eligible candidates waiting in the open market. The petitioners challenge the impugned communication which proposes to fill up vacancies by transferring in-service candidates.

3. My attention is drawn to the second proviso to Rule 2(c) of Special Rules of Tamil Nadu Industries Subordinate Services. It reads as follows:-

“(f) The post of Assistant Engineer (Industries) has the following methods of appointment:

Method of appointment		Qualification
1. By promotion from among the holders of the posts of Foreman (Engineering) Gr-II and Mechanical Draughtsman Gr-II and Foreman Assistant in CTAL, Guindy	i)	Must possess a Bachelor of Engineering or Bachelor of Technology degree of any discipline except Civil Engineering and Architectural Engineering of any University recognised by the University Grants Commission or Institution recognised by the All India Council for Technical Education.
	ii)	Must have put in service for a total period of not less than two years in the posts of Foreman (Engineering) Gr-II and Mechanical Draughts Gr-II and Foreman Assistant in CTAL, Guindy.



2. By Direct Recruitment or	iii)	Must possess a Bachelor of Engineering or Bachelor of Technology degree of any discipline except Civil Engineering and Architectural Engineering of any University recognised by the University Grants Commission or Institution recognised by the All India Council for Technical Education and
3. Transfer from any other class or category or		
4. Recruitment by transfer from any other service.	iv)	Must possesses practical experience in General purpose Engineering workshop or an Engineering Industry or in a recognised concern for a period of not less than six months; or must possess practical experience in a supervisory or operative capacity connected with production of goods or material or operation and maintenance of machinery and equipments in a recognised concern for a period of not less than six months. "

4. Rule 2(c) of the Special Rules is as follows:-

“Notwithstanding anything in rule 6 of General Rules for Tamil Nadu State and Subordinate Service out of every three vacancies, the first vacancy shall be filled or reserved to be filled by direct recruitment and the next two vacancies should be filled in or reserved to be filled by promotion.”

5. It can be seen therefrom that the vacancies will have to be filled up in the ratio of 1:2. In other words, 33% vacancies will have to be filled up by way of direct recruitment while the remaining vacancies will have to be filled up by way



of transfer. The learned Additional Government Pleader submitted that out of 57 vacancies, 19 vacancies have been earmarked for being filled up by way of direct recruitment. The rights of the petitioners are protected. There is no need to interfere with the impugned communication regarding the stand of the respondents. This writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. State of Tamil Nadu,
Rep. by its Principal Secretary,
MSME Department,
Fort St. George, Chennai – 9.
2. The Industries Commissioner and
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6

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