



W.P. No.17020 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.17020 of 2010
and M.P. No.3 of 2010

- 1.M.Prabhakaran
- 2.V.Manoj
- 3.C.Saravanan
- 4.A.Mariappan
- 5.R.Santhanaraj
- 6.S.Mariappan
- 7.S.Thomas
- 8.P.Mathavan

..Petitioners

Vs.

- 1.The Tamil Nadu Electricity Board,
Represented by its Chairman,
Anna Salai, Chennai-600 002.
- 2.The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
Anna Salai,Chennai-600 002.
- 3.S.Venkatesan,
Junior Engineer Grade-II,
Tuticorin Thermal Power Station,
Tuticorin-628 004.
- 4.M.R.M.Saravana Rajasolan,
Junior Engineer Grade-II,



W.P. No.17020 of 2010

Ennore Thermal Power Station,
Ennore, Chennai-57.

(Respondents 3 and 4 representing all such persons whose names are mentioned in the impugned list of 60 selected Junior Engineer (Mechanical) Grade II shown in Annexure to Memo.No.009369/177/G15/2009-1 dated 25.02.2009 and who may be affected by the result in the writ petition) ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent in Memo.No.009/369/177/G15/G151/2009-1 dated 25.02.2009 read with Letter No.052964/545/G.1/G.12/2010-2 dated 13.07.2010, quash the said proceedings dated 25.02.2009 and 13.07.2010 and consequently direct the official respondents to include the names of the petitioners in the panel issued pursuant to Letter No.052964/545/G.1/G.12/2010-2 dated 13.07.2010 by appointing the petitioners as Junior Engineer/ Mechanical II Grade by internal selection in accordance with Per BP FB No.25 SB dated 10.05.2006 with effect from 25.02.2009 by fixing their seniority above the list of Junior Engineers/ Mechanical II Grade shown in Annexure to Memo No.009 369/177/G15/G151/2009-1 dated 25.02.2009.

For Petitioners : Mr.Sundar Narayanan

For Respondents : Mr.K.Rajkumar
Standing Counsel (for R1,R2)

No appearance – for R3, R4

ORDER

The writ petition is filed challenging the communication dated 25.02.2009 read with letter dated 13.07.2010 to direct the official respondent to include the names of the petitioners in the panel issued



W.P. No.17020 of 2010

pursuant to the letter dated 13.07.2010 to appoint the petitioners as Junior Engineer Mechanical Grade-II in accordance with B.P.F.B No.25 dated 10.05.2006 with effect from 25.02.2009.

2. It is submitted by the learned counsel for the petitioners that the 1st petitioner had joined the Electricity Distribution Circle as Helper in the year 1999, the petitioner was promoted as Technical Assistant on 01.08.2003 and posted to the Ennore Thermal Power Station. The 2nd petitioner joined the Coimbatore North Electricity Distribution Circle as a Helper on 01.05.2009, he was promoted as a Technical Assistant on 02.08.2003 and posted to the Mettur Thermal Power Station. The 3rd petitioner was appointed as a Helper in the North Chennai Thermal Power Station on 01.05.1999 and promoted and posted as a Technical Assistant on 02.08.2003. The 4th petitioner was appointed as a Helper in the Tuticorin Thermal Power Station on 01.05.2009 and promoted and posted as a Technical Assistant on 13.08.2003. The 5th petitioner was appointed as a Helper in the Tuticorin Thermal Power Station on 01.05.1999 and promoted and posted as a Technical Assistant on 05.08.2003. The 6th petitioner was appointed as a helper in the Tuticorin



W.P. No.17020 of 2010

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Thermal Power Station on 01.05.1999 and promoted and posted as a Technical Assistant on 06.08.2003. The 7th petitioner was appointed as a Helper in the Tuticorin Thermal Power Station on 01.05.1999 and promoted and posted as a Technical Assistant on 13.08.2003. The 8th petitioner was appointed as a helper in the Thirumakottai Gas Turbine Project on 01.05.1999 and promoted and posted as a Technical Assistant on 13.08.2003.

3. It is submitted that B.P.F.B. No.25 dated 10.05.2006 prescribes the qualification for the post of Technical Engineer (Mechanical) Grade-II from the category of Technical Assistant Mechanical or equivalent thereto in the Regular Work Establishment, Senior Draughtsman and Draughtsman possessing a Diploma. Admittedly, the post of Junior Engineer was to be made on the basis of the ratio of 3:1 between Diploma and Non-Diploma holders. Qualification for the post of Technical Assistant (Mechanical) Grade II as set out in B.P.(FB)No.25 is extracted hereunder:



W.P. No.17020 of 2010

<i>Appointment by Internal Selection from the categories of Technical Assistant (Mechanical) or equivalent thereto in Regular Work Establishment, Senior Draughtsman and Draughtsman possessing a Diploma</i>	<i>(1) A Diploma in Mechanical Engineering or equivalent thereto; and</i> <i>(2) Practical experience in Mechanical Workshop or structural works for a period of not less than two years in the Tamil Nadu Electricity Board.</i> <i>Notwithstanding anything contained in sub-regulation 10A of regulation 87, the maximum age limit prescribed for appointment by direct recruitment shall not apply to the persons appointed under this provision. For the purpose of appointment by Internal Selection, selection shall be made (i) based on the total service rendered in the Board in the case of those who joined in service with the Diploma, and (ii) in the case of those who acquired the Diploma after entry into the service of the Board, based on the service rendered after acquiring the Diploma in Mechanical Engineering.</i>
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4. It is submitted that one of the requisite qualification is Practical experience in Mechanical Workshop or structural works for a period of not less than two years in the Tamil Nadu Electricity Board. Importantly, in case of those who acquired Diploma, the experience would be considered after they have acquired the Diploma. It is submitted that promotions have been made overlooking the above requisite criteria insofar as experience of 2 years were reckoned from the date of joining instead of from the date of acquiring Diploma. It is submitted that the



W.P. No.17020 of 2010

promotions were made apparently contrary to B.P.No.25. It was submitted by the learned counsel for the Respondents that there was a revision of the list in the year 2013 and the petitioner has now been notionally promoted as Mechanical Engineer Grade II in the year 2009. It was submitted by the learned counsel for the petitioner that he is not aware of such revision of the roster list. Be that as it may, inasmuch as the roster list has been furnished by the learned counsel for the Respondents. I would think that the grievance of the petitioner's notional promotion from the year 2009 may no longer survive. However, if for any reason the petitioners have not been notionally promoted, the same would be done within a period of 8 weeks from the date of receipt of a copy of this order.

5. The learned counsel for the Respondents would place reliance upon the order of this Court in W.P.No.20481 of 2012 in particular para 12 that the list has attained finality and promotions already granted cannot be disturbed. The above submission is made on a gross misconception since the prayer of the petitioners itself is confined to grant of notional promotion and does not in any manner relate to or



W.P. No.17020 of 2010

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intend to disturb the promotions already made.

6. The next question which arise is the monetary benefits in the said post of Junior Engineer Grade-II during the period 2009-13, it was submitted by the learned counsel for the Respondents that having granted notional promotion, it may not be open for them to insist for the pay of Junior Engineer as they have not discharged their duties in the said post. It was vehemently contended that the Respondent Board is in a severe financial crisis and therefore any direction with regard to payment of monetary benefits would have an adverse effect.

7. To the contrary, it was submitted by the learned counsel for the petitioner that by not applying the mandate in B.P.(FB)No.25 they have lost the benefit of promotion as well as monetary benefit with effect from the year 2009, which was legitimately due to them.

8. Considering the submissions of both sides, this Court is of the view that the ends of justice would be met by directing the Respondents to pay 25% of the salary from the period 2009 to 2013 of the difference



W.P. No.17020 of 2010

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in pay between the post of Technical Assistant and Junior Engineer Grade-II during the year 2009-13 within a period of 12 weeks from the date of receipt of a copy of this order.

9. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

31.07.2024

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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W.P. No.17020 of 2010

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To:

- 1.The Chairman,
Tamil Nadu Electricity Board,
Anna Salai, Chennai-600 002.
- 2.The Chief Engineer-Personnel,
Tamil Nadu Electricity Board,
Anna Salai,Chennai-600 002.
- 3.S.Venkatesan,
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Ennore, Chennai-57.



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W.P. No.17020 of 2010

MOHAMMED SHAFFIQ, J.

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W.P. No.17020 of 2010

02.08.2024