



W.P.No.6673 of 2016

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N. MALA

W.P.No.6673 of 2016
and W.M.P.No.5905 of 2016

D. Sankari

... Petitioner

Vs.

1. The Chairman & Managing Director
Tamil Nadu Generation and Distribution
Corporation (TANGEDCO)
No.144, Annasalai,
Chennai 600 002.

2. The Chief Engineer/Personnel
Tamil Nadu Generation and
Distribution Corporation (TANGEDCO)
No.144, Annasalai,
Chennai 600 002.

3. The Chairman
Board of Apprenticeship Training
Southern Region,
4th Cross Road, CIT Campus,
Taramani, Chennai 600 113.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Declaration to declare the proceedings of the 1st respondent in (Per) (FB) TANGEDCO Proceeding No.10, Administrative



W.P.No.6673 of 2016

Branch, dated 10.12.2015 and Notification No.1 of 2015 dated 28.12.2015 requiring the petitioner working as apprentice in the 1st respondent corporation to undergo written examination is illegal and consequentially direct the respondents 1 and 2 to dispense with the written examination for the ensuing direct recruitment to the post of Assistant Engineer (Electrical), Assistant Engineer (Mechanical) and Assistant Engineer (Civil) thereby direct the respondents 1 and 2 to formulate a scheme for absorbing ex-apprentices as per the amended provisions of Section 22(1) of the Apprentices Act, 1961.

For Petitioner : Mr.M.Sathish Rajan

For Respondents : Mr.K. Rajkumar
Standing Counsel

ORDER

This writ petition has been filed for issuance of Writ of Declaration to declare the proceedings of the 1st respondent in (Per) (FB) TANGEDCO Proceeding No.10, Administrative Branch, dated 10.12.2015 and Notification No.1 of 2015 dated 28.12.2015 requiring the petitioner working as apprentice in the 1st respondent Corporation to undergo written examination as illegal and consequentially direct the respondents 1 and 2 to dispense with the written examination for the ensuing direct recruitment to the post of Assistant Engineer (Electrical), Assistant Engineer (Mechanical) and Assistant Engineer (Civil) and thereby direct the respondents 1 and 2 to formulate a scheme for absorbing ex-



WEB COPY

apprentices as per the amended provisions of Section 22(1) of the Apprentices Act, 1961.

2. The case of the petitioner is that the 1st respondent's Proceedings No.10, Administrative Branch, dated 10.12.2015 and Notification No.1 of 2015 dated 28.12.2015 requiring the petitioner who was working as apprentice in the 1st respondent Corporation, to undergo written examination was illegal. According to the petitioner as per the provisions of the Apprentices Act, 1961, every year, the 1st respondent recruits Engineering Graduates as Apprentices for a period of one year. On completion of the Apprentices training the 1st respondent used to issue a certificate for completion of apprenticeship training. The petitioner after acquiring the Engineering degree enrolled her name in the Apprentices Board. Her name was sponsored by the third respondent Board to the 1st respondent to undergo apprenticeship training in the 1st respondent Corporation. The 1st respondent after scrutinizing the certificates and based on her academic marks and various other curricular activities selected the petitioner as apprentice. The petitioner completed the apprenticeship training in the 1st respondent Corporation during the period 2005 – 2006. The petitioner states that as per section 22(1) of the Apprentices Act before amendment, the employer on completion of the Apprentices training by the apprentice was



WEB COPY

obliged to offer suitable employment to the apprentice however, it was not obligatory on the part of the employer to offer any employment to any apprentice who completed the training in its establishment unless there was a specific condition in the contract. As per the amendment to section 22 (1) of the Apprentices Act, 1961 it was mandatory on the part of every employer to formulate its own policy for recruiting any apprentice who completed the period of apprenticeship training in its establishment unless there was a specific condition in the contract. In the light of the aforesaid provision the petitioner contented that she was entitled to employment in the respondent Corporation and the respondent could not insist the petitioner to undergo the normal process of recruitment. The petitioner further sought for formulation of a scheme to absorb the apprentice trainees as per Section 22(1) of the Apprentices Act, 1961.

3. Heard both sides and perused the materials available on record.

4. This Court in a batch of writ petitions seeking similar relief vide common order dated 25.01.2017 in W.P.Nos.5411 of 2016 etc., (batch) dismissed the writ petitions holding that

23. It is not in dispute that such is the condition agreed to by



WEB COPY

all the petitioners/trained Apprentices. In such circumstances, the only option available to them is to compete with the candidates from the open market, subject themselves to the process of recruitment, as notified by the TANGEDCO vide notification dated 28.12.2015, appear for the written examination, attend the oral interview and in the event, there is a tie between a trained Apprentice and the candidates from the open market, that is, if all things are equal, then and then alone, the trained Apprentice is entitled for preference.

24. An argument was advanced stating that the Apprentice Act as amended vide Amendment Act, 2014 has crystallized the rights of the petitioners in a more definite manner. The amended Section 22(1) of the Act states that every employer shall formulate its own policy for recruiting any Apprentice who has completed the period of Apprenticeship Training in its establishment. One limb of the argument by the petitioner is that a policy is already in vogue and as per the said policy, no written test is required for recruiting an Apprentice. The other limb of the argument is that after the amendment to the Act, it has become mandatory for TANGEDCO to formulate its own policy and no policy having been formulated, the policy prevailing prior to the amendment, would stand.

24. In my considered view both the submissions are not tenable. Firstly, the recruitment policy, which held the field prior to the Amendment of Section 22(1) of the Act, was a service Regulation, which provided leverage for the TANGEDCO to adopt methods of recruitment. After the amendment, the impugned Board Proceedings in BP.FB.No.10, dated 10.12.2015, came to be passed, which is the basis for the impugned notification, dated 28.12.2015. The Board of



WEB COPY

TANGEDCO took a decision with regard to direct recruitment to the post of Assistant Engineers, Technical Assistants and Field Assistants (Trainee) and other approved 750 posts sponsored by the employment exchange, Apprentices in TNEB/ TANGEDCO/ TANTRANSCO and open market candidates.

25. On a reading of BP No.10, it is evident that it is a policy decision taken by the Board concerning recruitment to the post referred above. The three sources of recruitment have been mentioned, namely through the employment exchange, trained apprentices and candidates from the open market. The Board took into consideration the decision of the Hon'ble Division bench which directed wide publicity while inviting applications not only restricting to sponsorship by the employment exchange or the Apprentices alone. This judgment was accepted by the Government and a policy decision was taken by the Government in G.O.Ms.No.44, Labour and Employment Department, dated 11.03.2015. The Board before mechanically adopting or resolving to adopt the Government's policy constituted a three member committee with the Director (Distribution) as Chairman and the Secretary and the Chief Engineer (Personnel) as its members and the Committee submitted their recommendations with regard to the mode of recruitment and selection and all other matters incidental thereto. The Board considered the report of the said committee and after examination of the proposal accorded approval for the said proposal. Thus, in all respects B.P.No.10, dated 10.12.2015, is the policy of TANGEDCO for recruiting not only Apprentices, but also persons from the open market. Thus, the contention of the petitioner that there is no policy framed after the



WEB COPY

amendment to the Apprentice Act is incorrect. Further, this Court finds that the amendment to Section 22(1) of the Act does not confer any vested right on the petitioners/Apprentices. Even much prior to the amendment, the policy of the Board was that if merit and ability are equal, preference shall be given to apprentice who had undergone training in the Board. All that the amendment insists upon the employer is to frame a policy, which has been done in terms of B.P. No.10.

26. One of the arguments was based on a Government Order in G.O. Ms. No.142, dated 10.11.1998. This Government Order cannot come to the assistance of the petitioners, as this was issued much prior to the judgments of the Hon'ble Supreme Court in the case of U.P.Raj Viduyut Parishad Apprentice Welfare Association & Anr., (supra) and Bhoodev Singh & Ors., (supra). In fact the inspiration to include clause No.5 in G.O.Ms.No.142, was based on the observations made in P.Arul's case, which was held to be laying down a very broad principle and cannot be held to be law laid down. Therefore, the petitioners cannot rely upon G.O.Ms.No.142.

27. Thus, for all the above reasons, the petitioners have not made out a case for grant of the relief sought for and accordingly, all the Writ Petitions are dismissed. During the pendency of these Writ Petitions, this Court passed an interim order on 26.07.2016, by which TANGEDCO was permitted to declare the results of all the candidates who appeared for the written examination, but, TANGEDCO shall not proceed further with the selection process and confine themselves only for publication of results and await final orders in the Writ Petitions.



W.P.No.6673 of 2016

WEB COPY

As all the Writ Petitions filed by the apprentices have been dismissed, TANGEDCO, is permitted to proceed further with the recruitment process based on the results in the written examination. No costs. Consequently, connected Miscellaneous Petitions are closed.

5. Since the relief sought for is also similar, this Court following the above decision is inclined to dismiss the writ petition.

6. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

09.08.2024

dpq
Index : Yes /No
Speaking Order : Yes/No

N. MALA, J.

dpq



W.P.No.6673 of 2016

WEB COPY

To

1. The Chairman & Managing Director
Tamil Nadu Generation and Distribution
Corporation (TANGEDCO)
No.144, Annasalai,
Chennai 600 002.
2. The Chief Engineer/Personnel
Tamil Nadu Generation and
Distribution Corporation (TANGEDCO)
No.144, Annasalai,
Chennai 600 002.
3. The Chairman
Board of Apprenticeship Training
Southern Region,
4th Cross Road, CIT Campus,
Taramani, Chennai 600 113.

W.P.No.6673 of 2016
and W.M.P.No.5905 of 2016

09.08.2024