



WEB COPY



W.P.No.29385 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM :

THE HONOURABLE DR. JUSTICE D.NAGARJUN

W.P.No.29385 of 2014

and M.P.No.1 of 2014

1. K.Manivel
2. S.Mathesan
3. C.Suganya

....Petitioners

Vs.

1. Tamilnadu Generation and
Distribution Corporation Ltd
Rep by its Secretary
144, Anna Salai, Chennai -2.
2. The Chief Engineer (Personnel)
Tamilnadu Generation and Distribution
Corporation Ltd.,
144, Anna Salai, Chennai -2.
3. The Chief Engineer
Mettur Thermal Power Station-I
Tamilnadu Generation and Distribution
Corporation Ltd
Mettur Dam
Salem – 636 406.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to call the petitioners for interview for appointment to the post of Tester Chemical in the existing vacancies, without reference to sponsorship from employment exchange and consider the petitioners for appointment to the post of Tester Chemical by



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giving the petitioners preference based on their employment and service with respondents in the post of Tester Chemical, and not to terminate or dispense with the petitioners present services in any manner, till they are considered and given appointment to the post of Tester Chemical on permanent basis at the time of direct recruitment to the said post in the existing vacancies, award costs.

For petitioner : Ms.Dharshini.G.K
For respondent : Mr.K.Rajkumar
Standing counsel

ORDER

The Writ Petition is filed seeking for Writ of Mandamus directing the respondent to call the petitioner for the interview for appointment for the post of Tester Chemical.

2. It is submitted by the learned counsel for the petitioner that the respondent Electricity Board recruits the candidates for various posts by the Tamil Nadu Electricity Board Service Regulations and also various settlements arrived from time to time with the workmen. There were 40 posts of Tester Chemical. The petitioners have joined as Tester Chemical at MTPS (Mettur Thermal Power Station) on 26.06.2013 and 09.11.2013 respectively. They were employed through contract, however, they were treated as employee of the first respondent Corporation. There were about 100 vacancies unfilled with the first respondent Department in cadre of Tester



Chemical. The Central Organization of Tamil Nadu Electricity employees (COTEE) made a representation on 22.12.2012 and 29.12.2012 to fill up all the vacancies of Tester Chemical.

3. The petitioners made individual representations to the first respondent to consider them for the appointment to the post of Tester Chemical either by internal selection or direct selection by giving preference considering continuous services of the petitioners as Tester Chemical in MTPS where the contract labour system has been already been abolished. Since there was no response, this writ petition is filed.

4. The second respondent has filed counter affidavit stating that the petitioners have worked only for 180 days and the wages were paid to the contractor and the contractor in turn paid the wages to the petitioners, and the petitioners were not employed directly under the respondent and their services were not continuous, as and when work was there, the respondent used to offer the tenders and based on which contractors were appointed.

5. The petitioners were admittedly working with the respondent Corporation through contract. Their remuneration were being paid only by the contractor and not by the department. There was no contractual or any sort of relation between petitioners and the respondents. The petitioners were not



continuously working. Though the petitioners stated that they have been working continuously with the respondent, the contractors were changed from time to time.

6. Now, the question is whether the petitioners who are working through the contractors can be absorbed in the existing vacancies. There is no agreement that the petitioners and other similar persons shall be absorbed after working specific period of years. There is no right existing to the petitioner to seek employment in the respondent department on preferential basis. Contract employees cannot be regularized in violation of the Hon'ble Supreme Court's direction in the case of ***Secretary State of Karnataka and others -vs- Umadevi and others*** reported in ***AIR 2006 SC 1806***, the petitioner cannot claim any preferential right to get into the respondent department without following recruitment procedure.

7. The petitioners are seeking for direction to the respondent to call the petitioners for interview for appointment for the post of Tester Chemical in the existing vacancy. This Writ petition is filed in the year 2014 and the learned counsel for the respondent submits that the recruitment for the year 2014 has already been completed and as of now there are no vacancies in the



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recruitment in the cadre of Tester Chemical. First Petitioner and third Petitioner have stated that as of now they are not working with the second respondent either directly or through contract. The learned counsel for the petitioner submits that second Petitioner is still working in the Second Respondent through contractor. The Writ Petition filed has become infructuous since there stated to be no vacancies as of now in the respondent Corporation. However, the respondent can directly consider the petitioners in case, if in the future recruitment process by following due procedure.

8. Considering the above, the Writ Petition is disposed of directing the respondent to consider the request of the petitioners in the next recruitment by following due procedures. Accordingly, the Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed.

09.02.2024

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Index : Yes/No
Internet : Yes/No
Citation : Yes/No

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DR. D.NAGARJUN,J.



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