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WA Nos.1844 and 1845 of 2024



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 03.12.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR  
AND  
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.Nos.1844 and 1845 of 2024**

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|              |      |                                 |
|--------------|------|---------------------------------|
| A.Prabakaran | .... | Appellant in WA No.1844 of 2024 |
| V.Mohan      | .... | Appellant in WA No.1845 of 2024 |

**Vs.**

1. The Chairman cum Managing Director,  
Tamil Nadu Generation and Distribution Corporation Limited,  
No.144, Anna Salai,  
Chennai 600 002.
  2. Tamil Nadu Transmission Corporation Limited,  
(TANTRANSCO) Rep. By its Managing Director,  
No.144, Anna Salai,  
Chennai – 600 002.
  3. The Chief Engineer/Personnel,  
Tamil Nadu Generation and Distribution Corporation Limited,  
No.144, Annasalai,  
Chennai – 600 002
  4. The Superintending Engineer,  
Tamil Nadu Generation and Distribution Corporation Ltd.,  
Namakkal Electricity Distribution Circle,  
Namakkal.
- .... Respondents  
in both Writ appeals

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**Common Prayer : Writ Appeals under Clause 15 of the Letters Patent to pass an**



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WA Nos.1844 and 1845 of



order setting aside the order passed by the learned Judge in W.P.No.14427 & 14424 of 2022 dated 20.09.2023.

in both Writ Appeals

For Appellant : Mr.R.Muralikrishnan

For Respondent : Mr.Venkatesh Prasad A.P  
for M/s.Agam Legal

### **COMMON JUDGEMENT**

(Judgement of the Court was made by **R.SURESH KUMAR, J.**)

Since the issues raised in both the writ appeals are one and the same, both the writ appeals were heard together and disposed of through this common order.

2. These appellants had been initially engaged as a Casual Labourers at the respondent organization viz., TANGEDCO and after long years, they have been regularized as Mazdoors on temporary basis on 09.09.2007 pursuant to settlement reached between the employee and employer under Section 12(3) of the Industrial Disputes Act [*hereinafter called as the **ID Act***].

3. In the same position as Mazdoor, their services have been confirmed on 09.03.2008.

4. While that being so, it seems to be the contention of the writ



petitioners / appellants that under the Board proceedings No.45, these writ petitioners also were eligible to be considered for promotion to the post of helper and in the year 2009 itself, since there has been number of vacancies to the post of helper, these writ petitioners ought to have been promoted. However, instead of promoting them in the year 2009, they have been given promotion only in the year 2012 as Helper and in the meanwhile, there has been a direct recruitment to the post of helper resultantly number of candidates who have been selected and appointed by way of Direct recruitment to the post of helper, had come and joined and they marched over the candidates like the writ petitioners / appellants also as they got promotion as helper only in the year 2012. Therefore, in order to give such a retrospective promotion from 2009 to the post of helper and to give further promotion to the post of Wireman, line inspector etc, the writ petitioners had given representation to the respondents TANGEDCO, which was rejected by an order of the TANGEDCO dated 14.02.2022. Therefore, challenging the same only those writ petitions have been filed.

5. By two separate orders, the learned Writ Court on 20.09.2023 dismissed those writ petitions. Challenging the same, the present intra court appeals have been directed.

6. We have heard the learned counsel appearing for the appellants



and Mr.Venkatesh Prasad A.P, for M/s.Agam Legal, learned counsel for respondents TANGEDCO.

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7. The learned counsel for the appellants would submit that as per the earlier recommendation as to the preparation of the seniority list for any post including the post of helper or subsequent promotional post, 1:1 ratio should be maintained between the direct recruiters and the promotees. If that become the rule and had it been followed certainly while preparing the seniority list at least in the cadre of helper, both the direct recruits who have entered into service in 2009 as well as the promotees who though had been promoted in the year 2012, would have been in the same panel or the same seniority list and from which the panel for promotion to the next higher category i.e Wireman or Commercial Assistant could have been prepared where at 1:1 ratio these candidates also would have found place.

8. However, because of the belated promotion given to these writ petitioners / appellants in the year 2012 and not following the 1:1 ratio, the promotional avenue gets stagnated and thereby, they have been given promotion as wireman belatedly in the year 2014. Therefore, the learned counsel would contend that the rejection order that has been made in not considering the representation given in this regard to give promotion to the post of helper in the year 2009 itself and give further promotion to the post of Wireman accordingly



along with the direct recruits is not in consonance with the 12(3) settlement of the ID Act as well as the recommendation that has been made by the Commission which has been approved already by the order of the Court and therefore, the learned counsel seeks the indulgence of this Court to interfere with the order passed by the writ Court, who rejected the plea made by the writ petitioners through the said writ petitions.

9. However, the learned Standing counsel appearing for the respondents TANGEDCO would submit that these two writ petitioners / appellants were initially engaged only as Casual Labourers subsequently had been brought under the regular time scale of pay to the post of Mazdoor only by way of settlement made under Section 12(3) of the ID Act. For the subsequent promotion to the post of helper, according to the rule, one must possess the ITI certificate. However, admittedly these appellants did not possess any such ITI certificate, they are not at all entitled to get promotion even to the post of helper. However, by giving relaxation to this ITI certification which is a qualification to hold the post of helper by way of board proceedings No.9 dated 23.05.2012, such a promotion to the post of even helper was given to these appellants. Hence, they cannot seek for any promotion equal to the direct recruits either to the post of helper or further promotion to the post of wireman from 2009 onwards and therefore, such a huge plea made by them since have been considered in right perspective and rejected through the order impugned



before the writ Court which was considered in proper perspective by the learned Judge and rejected the writ petitions filed by them is perfectly in order and therefore, it does not warrant any interference of this Court.

10. We have considered the rival submissions made by the parties and also perused the materials placed before this Court.

11. As has been rightly pointed out by the learned counsel appearing for TANGEDCO, the qualification to hold the post of even the helper is ITI which admittedly these writ petitioners did not have. When that being so, even to hold the post of helper on humanitarian consideration by taking into account the long service rendered by them to the TANGEDCO either as casual labourer or as a Mazdoor pursuant to Section 12(3) settlement of the ID Act, such a relaxation has been given by the Board proceedings and thereby, they have been given the promotion to the post of helper in the year 2012.

12. Subsequently corresponding further promotion also has been given to the post of wireman in the year 2014. Therefore, at no stretch of imagination they can seek any parity for promotion on competing with the direct recruits, who had been recruited directly to the post of helper and all those recruits were possessing the requisite qualification of ITI. Therefore, there is a dichotomy between these two type of candidates one type of candidates who have been



directly recruited were possessing the required qualification whereas these candidates did not have the prescribed qualification required to the post of helper. When that being so, the comparison between direct recruits with these writ petitioners/ appellants by citing 1:1 ratio even that has not been brought under the rule, cannot be countenanced. Therefore, there is every justification on the part of the TANGEDO to reject the representation made by the writ petitioners which in fact has been considered in proper perspective and therefore, the writ petitions were dismissed by the writ Court and therefore, we do not intend to interfere with the order passed by the Writ Court impugned herein. In this regard, these appeals fail. Therefore, they are liable to be dismissed and accordingly, they are dismissed. However, there shall be no order as to costs.

**(R.S.K.,J.) (C.S.N.,J.)**  
**03.12.2024**

Index : Yes/No  
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