

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2012

Coram :

THE HONOURABLE MR. JUSTICE D. HARIPARANTHAMAN

W.P.No.28649 of 2012

and

M.P.Nos.4,5,6 and 1 of 2012

W.P.No.21209 of 2012

and

M.P.Nos.2,1 to 1 of 2012

W.P.No.28649 of 2012

R.Anand Babu

.. Petitioner

/vs/

1.The Chairman cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai
Chennai 600 002

2.The Tamil Nadu Generation and Distribution
Corporation Limited
Rep. by its Secretary
144, Anna Salai
Chennai 600 002

3.The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai
Chennai 600 002

4.S.P.Vinothkumar

5.O.Ramalingam

6.R.Rajesh

7.TNEB Engineers Sangam,
Rep. by its General Secretary
793, Anna Salai, Chennai 600 002

.. Respondents

(R4 to R7 impleaded as per order of this court dated 1.11.2012 in
M.P.Nos.2 & 3 of 2012 in W.P.No.28649 of 2012)

bj 0054010

W.P.No.21209 of 2012

1.K.Sivakumar
2.S.Arums
3.R.Anilal
4.P.Sasirekha
5.D.Sathish
6.R.Parthasarathi
7.R.Sivasakthibalan
8.A.Infant Stein
9.S.Bagyalakshmi
10.J.Prakash

.. Petitioners

/vs/

1.The Chairman cum Managing Director
Tamil Nadu Generation and Distribution Corporation Limited
144, Anna Salai, Chennai 600 002

2.The Tamil Nadu Generation and Distribution Corporation
Limited
Rep. by its Secretary
144, Anna Salai, Chennai 600 002

3.The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution Corporation Limited
144, Anna Salai, Chennai 600 002

**4.TNEB Engineers Sangam,
Represented by its General Secretary
793, Anna Salai, Chennai 600 002**

.. Respondents

(R4 impleaded as per the order of this court dated 21.11.2012 in
M.P.No.3 of 2012 in W.P.No.21209 of 2012)

W.P.No.28649 of 2012

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to implement the prescribed ratio 1:1 scrupulously, defer internal selection and resort to direct recruitment only till equilibrium is achieved among the strength of Assistant Engineers/Electrical appointed under the two modes of recruitment viz., direct recruitment and internal selection.

W.P.No.21209 of 2012

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the third respondent pertaining to the impugned proceedings of the third respondent vide letter

bj 0054011

No.000729/Z/G.55/G.551/2012-1 dated 27.1.2012 and quash the same and consequentially direct the second and third respondents to defer internal selection and resort to direct recruitment only till equilibrium is achieved among the strength of Assistant Engineers/Electrical appointed under two modes of direct recruitment and internal selection.

W.P.No.28649 of 2012

For Petitioners :Mr.AR.L.Sundaresan
Senior Counsel
for Mr.K.Ramasamy

For Respondents :M/s R.Varalakshmi for R1 to R3
:Mr.L.Chandrakumar for R4 to R6
:Mr.R.Yashod Vardhan
Senior Counsel for
Mr.R.Sunil Kumar for R7

W.P.No.21209 of 2012

For Petitioners :Mr.A.S.Rajkumar Vadivel

For Respondents :Mr.R.Varalakshmi for R1 to R3
:Mr.R.Yashod Vardhan
Senior Counsel for
Mr.R.Sunil Kumar for R4

COMMON ORDER

In both the writ petitions, the petitioners are B.E. in Electrical. In W.P.No.21209 of 2012, there are ten petitioners. They have sought to quash the letter dated 27.01.2012 issued by the third respondent, the Chief Engineer(Personnel) to all the Superintending Engineers calling for particulars to fill up the vacancies in the post of Assistant Engineer (Electrical) by internal selection. There is one petitioner in W.P.No.28649 of 2012 and his prayer is for issuance of a direction to the respondents to implement the prescribed ratio 1:1 scrupulously in the matter of appointment to the post of Assistant Engineer(Electrical) by internal selection and direct recruitment. In that effect both the prayers are one and the same.

2. In W.P.No.21209 of 2012, TNEB Engineers Sangam, got impleaded as one of the respondents. The same Sangam also got impleaded as one of the respondents in W.P.No.28649 of 2012. Three serving employees of Tamil Nadu Electricity Board also got impleaded as respondents in W.P.No.28649 of 2012.

bj 0054012

3. In W.P.No.28549 of 2012, this Court granted interim order and the same results in not proceeding further in the internal selection. Hence, the serving employees, who are aspiring to get appointment as Assistant Engineer have moved this Court either individually or through the aforesaid Sangam.

4. The learned Senior Counsel for Sangam and the learned counsel representing the individual employees have submitted that while direct recruitment for the year 2012 was already made, the internal selection is withheld, though the same was initiated in January 2012. It is the further case of the learned counsel for Sangam that unless the internal selection is completed and the appointments are made before 2012, it would seriously affect their future career, since regulation 97 provides as to how the seniority has to be reckoned between the internal selection and direct recruits of the year.

5. The Tamil Nadu Electricity Board as well as other parties filed counter affidavit refuting the allegations.

6. Heard the learned counsel for the petitioners and the learned counsel for the respondents.

7. The learned Senior Counsel for the petitioners have made the following submissions:-

(i) In the matter of appointment of Assistant Engineer (Electrical), the ratio of 1:1 between internal selectees and direct recruits are not maintained by the Department and there are more internal selectees. Hence, there shall not be internal selection for the year 2012.

(ii) Appointments of Scheduled Caste candidates made under the direct recruitment are brought under internal selection scheduled caste vacancies.

(iii) The re-designated Assistant Engineers shall be counted as Assistant Engineers under the internal selection and equal number of persons shall be recruited under the direct recruitment.

8. The aforesaid issues are raised by the learned Senior Counsel, which are to be decided in these writ petitions.

bj 0054013

9. As per Regulation 92, Annexure I, Class II, Division II (Electrical), Category 3 provides the method of appointment to the post of Assistant Engineer (Electrical). As per the aforesaid regulation, the internal selection and the direct recruitment shall be in the ratio of 1:1. For the purpose of appointment by the internal selection, the selection shall be made on the basis of service rendered after acquiring B.E. Degree or equivalent qualification.

10. It is not in dispute that the regulation prescribes 1:1 ratio in the matter of appointment of Assistant Engineer (Electrical) by internal selection and direct recruitment. While the petitioners contend that about 656 excess vacancies have to be filled up by way of direct recruitment, since there are 656 excess internal selectees over their quota.

11. On the other hand, the Tamil Nadu Electricity Board has given the details about the number of persons selected under the head "Internal Selection" and under the head "Direct Recruitment" from the year 1985 upto 2012, particularly, in para 7 and 15 of their counter affidavit in W.P.No.28649 of 2012. As per para 7 of the counter affidavit, the appointments made from 1985 to 2011 under the head internal selection is 2847 persons, while 2654 direct recruits were made in the above said period.

12. It is stated in para 15 that 193 excess persons were internally selected and the same was adjusted while making direct recruitment in the year 2012. It is stated that 498 have to be directly recruited for the year 2012 while 304 employees have to be internally selected. However, it is stated that direct recruitment for the year 2012 already took place and 450 Assistant Engineers (Electrical) were recruited. In fact, the petitioners are unsuccessful in the selection process.

13. In view of the above said details given by the Tamil Nadu Electricity Board, I am of the view that the grievance of the petitioners that there are still 656 excess internal selectees has no basis. In the year 2012, 450 appointments were made for the post of Assistant Engineer (Electrical) by way of direct recruitment, while the selection of 304 employees by way of internal selection for the year 2012 is not over yet. Thus now, the employees aspiring for internal selection have the real grievance. Hence, the first submission is rejected.

14. The second submission is that Scheduled Caste employees under the internal selection are adjusted from the direct recruitment and the same is not permissible. As far as this submission is concerned, no materials are produced by the petitioners. Further, as rightly contended by the learned Senior Counsel for Sangam, as per the regulation 87(10) (10-A) of the Tamil Nadu Electricity Board Service Regulations, the internal selection is deemed as direct recruitment. Regulation 87 (10) and 87(10-A) of the Tamil Nadu Electricity Board Service Regulations are extracted hereunder:-

"87(10) RECRUITED DIRECT:-

A candidate is said to be 'recruited direct' to a class of service or post borne on the cadre of such class of service if, at the time of his first appointment thereto he is not in the service of the Board.

Provided that for the purpose of this definition, a person shall be deemed to be not in the service of the Board.

(i) if a period of five years has not elapsed since his first appointment to a class of service in the Board; or

(ii) if he belongs to the Scheduled Castes, Scheduled Tribes or Backward Classes, declared as such by the Government.

(10-A) A candidate is said to be recruited by internal selection to a post if at the time of his selection for appointment thereto he is in the service of the Board. Appointment by internal selection shall be deemed to be direct recruitment for all purposes including reservation of appointment with reference to regulation 89(b)"

15. Therefore, even if such an adjustments are made, in my view, the same cannot be found fault with. If sufficient Scheduled Caste employees are not available in internal selection, the same can be adjusted under the direct recruitment quote. Hence, the second submission is also rejected.

16. While the Assistant Engineers (Electrical) are recruited either by way of internal selection within the service or by way of direct recruitment from out side market, the Junior Engineer (Electrical) Grade I carries the same scale of pay as that of Assistant Engineer and Junior Engineer Grade I is filled up by way of promotion from Junior Engineer (Electrical) Grade II. Those posts of

bj 005401E

Junior Engineer (Electrical) Grade I is category IV post under Division II of Class 2 of Annexure I referred to in Regulation 92 of the Tamil Nadu Electricity Board Service Regulations. The Junior Engineer Grade II is also not filled up by way of direct recruitment. The employees, who were promoted as Junior Engineer Grade-I are re-designated as Assistant Engineer, if they possess B.E. qualification. Those Junior Engineers Grade I, who are redesignated as Assistant Engineers cannot be termed as internal selectees as sought to be argued by the learned Senior Counsel. The internal selection is by way of direct recruitment while promotion to Junior Engineer Grade I is made from the feeder category. Hence, the submission of the learned Senior Counsel has no merits.

17. In my view, the grievance of the serving employees who are in possession of B.E. qualification for filling up the vacancies under the internal selection, is fully justified. It is stated in the counter affidavit of the Tamil Nadu Electricity Board that further proceedings of internal selection was withheld though the Chairman cum Managing Director approved the internal selection on 06.09.2012. The appointment orders were not issued to the internal selectees in view of the interim order dated 30.10.2012, though approval of internal selection was made. Hence, the writ petitions are dismissed with a direction to the respondents to issue appointment orders to the internal selectees forthwith. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Cwasanthi 10.12.12
Sub Asst. Registrar.

Ari

To

1. The Chairman cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai
Chennai 600 002

bj 0054016

2.The Secretary
The Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai, Chennai 600 002

3.The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation Limited
144, Anna Salai
Chennai 600 002

4.The General Secretary
to the TNEB Engineers Sangam,
793, Anna Salai, Chennai 600 002

- 1 CC To Mr.L.Chandrakumar Advocate SR NO.74825
- 1 CC To Mr.R.Sunilkumar Advocate SR NO.74762
- 1 CC To Mr.K.Ramasamy Advocate SR NO.74704
- 1 CC To Mr.A.S.Rejkumar Vadivel Advocate SR NO.74705
- 1 CC To Mr.R.Varalakshmi Advocate SR NO.74600 ,74598

W.P.Nos.28649 and 21209 of 2012

SV (CO)
NR 10/12

bj 0054017

Wf nos 28649 / 2012
27209

HIGH COURT OF JUDICATURE
MADRAS.

S.R. No. TH 762

Carbon Copy application
made. 11/21/2012

Application Returned..... 200

Application Represented..... 200

Copy made ready..... 11/21/2012

Copy Delivered..... 11/21/2012

Section Officer
Current Section