

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2012

Coram :

THE HONOURABLE MR. JUSTICE D. HARI PARANTHAMAN

W.P.No.29502 to 29515 of 2012

and

M.P.Nos. 1 of 2012 (14 nos.) and M.P.No.3 of 2012 in W.P.No.29502 of 2012; M.P.No.3 of 2012 in W.P.No.29515 of 2012; M.P.No.4 of 2012 in W.P.No.29512 of 2012 and M.P.No.5 of 2012 in W.P.No.29512 of 2012

P. Ramer	.. Petitioner in WP 29502/2012
S. Thengareju	.. Petitioner in WP 29503/2012
A. Rishnazumudin	.. Petitioner in WP 29504/2012
S. Murugesan	.. Petitioner in WP 29505/2012
K. Madhavan	.. Petitioner in WP 29506/2012
S. Elenezal Selva Daniel	.. Petitioner in WP 29507/2012
S. Beskeran	.. Petitioner in WP 29508/2012
D. Senthil Kumar	.. Petitioner in WP 29509/2012
N. Muthukumar	.. Petitioner in WP 29510/2012
N. Vijaya Babu	.. Petitioner in WP 29511/2012
K. V. Ilayaraja	.. Petitioner in WP 29512/2012
A. Palanisamy	.. Petitioner in WP 29513/2012
R. Karuppaiah	.. Petitioner in WP 29514/2012
K. Saravanan	.. Petitioner in WP 29515/2012

/vs/

1. The Tamil Nadu Generation and Distribution Corporation Ltd.,
Rep. by the Chairman
No.144, Anne Salai, TNEB,
Chennai

2. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anne Salai, TNEB,
Chennai

.. Respondents 1 and in all WPs

AR 0065421

3. THE SUPERINTENDING ENGINEER
TIRUPATTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LTD.,
TIRUPATTUR
VELLORE DISTRICT ..3rd RESPONDENT IN WP.29502/12

THE SUPERINTENDING ENGINEER
METTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LTD. METTUR ..3rd RESPONDENT IN W.P.29503 OF 2012

THE SUPERINTENDING ENGINEER
CUDDALORE ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LTD. CUDDALORE ..3RD RESPONDENT IN W.P.29504 OF 2012
W.P.29515 OF 2012

THE SUPERINTENDING ENGINEER
UDUMALPET ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LTD. UDUMALPET ..3RD RESPONDENT IN W.P.29505 OF 2012

THE SUPERINTENDING ENGINEER
TIRUPATTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LTD. TIRUPATTUR..3RD RESPONDENT IN W.P.29506 OF 2012
29512 OF 2012

THE SUPERINTENDING ENGINEER
NON CONVENTIONAL ENERGY SOURCES TAMIL NADU
GENERATION AND DISTRIBUTION CORPORATION LTD
TIRUNELVELI ..3RD RESPONDENT IN W.P.29507 OF 2012

THE SUPERINTENDING ENGINEER
METTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD METTUR DAM ..3RD RESPONDENT IN W.P.29508 OF 2012
W.P.29513 OF 2012

THE SUPERINTENDING ENGINEER
MADURAI ELECTRICITY DISTRIBUTION CIRCLE/
METRO TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD MADURAI-7. .3RD RESPONDENT IN W.P.29509 OF 201

THE SUPERINTENDING ENGINEER
KANYAKUMARI ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD KANYAKUMARI ..3RD RESPONDENT IN W.P.29510 OF 2012

AR 0065422

THE SUPERINTENDING ENGINEER
KRISHNAGIRI ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD KRISHNAGIRI AT DHARMAPURI.

..3RD RESPONDENT IN W.P.29511 OF 2012

THE SUPERINTENDING ENGINEER
PUDUKOTTAI ELECTRICITY DISTRIBUTION
CIRCLE/METRO TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LTD. PUDUKOTTAI.

..3RD RESPONDENT IN W.P.29514 OF 2012

TNEB ENGINEERS SANGAM,
REP. BY ITS GENERAL SECRETARY
NO.793, ANNA SALAI,
CHENNAI 600 002

..4TH RESPONDENT IN WP.NO.29502 &
29515/12 AND 7TH RESPONDENT IN
WP.29512/12

(R4 impleaded as per order dated 23.11.2012
by DHPJ in M.P.No.2, 2, 2 of 2012 in W.P.No.29502,
29512 and 29515 of 2012)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the second respondent to select and appoint the petitioner as Assistant Engineer/Electrical by internal selection, with all consequential benefits pursuant to by letter No.000729/2/G.55/G.551/2012-1 dated 27.01.2012 of the second respondent.

For Petitioners :Mr.V.Prakash,
Senior Counsel
for Mr.V.S.N.Ravichandran(in all WPs)

For Respondents :M/s R.Veralekshmi for R1 to R3(in all Wps)

:Mr.L.Chandrakumar for R4 to R6 in
W.P.No.29512 of 2012

:Mr.R.Yashod Vardhan, Senior Counsel
for Mr.R.Sunil Kumar for R4 in W.P.No.29502,
and 29515 of 2012 and
R7 in W.P.No.29512 of 2012

AR 0065423

COMMON ORDER

The petitioners are now working as Helper-cum-Meter Reader in Tamil Nadu Electricity Board. They rendered long service as contract Helper and they are absorbed as Regular Helper-cum-Meter Reader. All of them are possessing B.E. qualification. They are absorbed as a regular employee in the post of Helper-cum-Meter Reader on various dates. Since they are in possession of B.E. qualification, they also made applications to consider them under internal selection for the post of Assistant Engineer (Electrical), when the Chief Engineer(Electrical) sent a letter dated 27.01.2012 to all the Superintending Engineers to submit proposals for internal selection.

2.The grievance of the petitioners is that though the respective Superintending Engineers forwarded their applications for internal selection, the same was not considered by the Chief Engineer(Personnel) of the Tamil Nadu Electricity Board. Hence, the petitioners have filed these writ petitions seeking for a direction to appoint them as Assistant Engineer(Electrical) by internal selection pursuant to the letter dated 27.01.2012 of the Chief Engineer (Personnel).

3.The respondents have filed counter affidavit refuting the allegations.

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

5.The regulation 92 of Tamil Nadu Electricity Board Service Regulations deals with the appointment to several Classes, Divisions and Categories specified in column (1) of Annexure to the Regulations. In Annexure I, Class II, Division II, Category III, is the post of Assistant Engineer(Electrical). The method of appointment to the post of Assistant Engineer (Electrical) as provided under this regulation is by way of internal selection and direct recruitment. In this case, we are not concerned with the direct recruitment. In the aforesaid Annexure I, it is stated that for the purpose of appointment by internal selection, the selection shall be made on the basis of the service rendered, after acquiring B.E. degree or equivalent qualification. Therefore, all the serving employees, who are in possession of B.E. Degree are entitled to be considered for internal selection. Regulation 87 Clause 10-A defines that the appointment by internal selection is deemed to be direct recruitment, i.e. internal selection is nothing but the selection of employees by way of direct recruitment. The serving employees, who are in possession of B.E. Degree, come under the zone of consideration for recruitment for the post of Assistant

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Engineer(Electrical). Therefore, as per the statutory regulations, the petitioners are entitled to be considered for the internal selection to the post of Assistant Engineer(Electrical).

6. But, the respondents refused to consider the case of the petitioners based on the memo No.107609/G.58/G.582/2007-1, dated 07.09.2007 issued by the Chief Engineer(Personnel).

7. The said memo dated 07.09.2007 of the Chief Engineer (Personnel) is placed before this Court and para 11 of the aforesaid memo is heavily relied on by the learned counsel for the Tamil Nadu Electricity Board and the same is extracted hereunder:

11. The Superintending Engineers are informed that before issue of orders of appointment as Mazdoor, Halper-cum-Meter Reader and Assessor Grade-II, it should be ensured.

(a) that the individual is a bonafied Contract Labourer identified on 8.8.98.

(b) the individual has received ex-gratia payment for the year 2005-2006 and

(c) that the individual has regularly, reported to the Section Office in the last 12 months as on 31.07.2007.

Those persons shall be posted exclusively in O&M Sections of the circles. They will not be eligible for Internal Selection before completion of a prescribed period of service from the date of their regular appointment as Per B.P.4th cited.

8. Para 11 of the memo dated 07.09.2007 states that unless the employees have rendered prescribed period of service from the date of their regular appointment as per B.P. 45 dated 6.9.2007 that is referred to as 4th item in the reference of memo dated 07.09.2007, the employees cannot be considered for internal selection.

9. Therefore, the memo is based on B.P.45. B.P.45 is also placed before this Court. B.P.45 has nothing to do with internal selection. B.P.45 deals with promotion from one category to another category. Para 4 of the B.P.45 is relevant for this case and the same is extracted hereunder:

4. Therefore, the Board after careful examination of the issue has decided to prescribe the minimum period of service in the post of Mazdoors, Halper-cum-Meter Readers and Assessors Grade II for promotion as follows:

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Sl. No.	Name of the Category	Minimum Service
1	Mazdoor	2 Years
2	Helper cum Meter Reader	5 Years
3	Helper	5 Years
4	Assessor Grade II	5 Years

If a Helper cum Meter Reader wants to get promotion as Helper, he should have rendered 5 years of service for seeking promotion. In this case, the petitioners are not seeking promotion to the post of Helper. They want to participate in the internal selection for the post of Assistant Engineer (Electrical). Internal selection is nothing but direct recruitment. Further more, they want that they should be considered for the post of Assistant Engineer if they are otherwise eligible. In my view the stand of the Tamil Nadu Electricity Board placing reliance on the memo dated 07.09.2007 has no basis and in fact, the same is contrary to the statutory regulations. Hence, the submission of the learned counsel for the Electricity Board is rejected.

10. Accordingly, the writ petitions are disposed of with a direction to the respondents to consider the claim of the petitioners to the post of Assistant Engineer (Electrical) for internal selection for the year 2012 and to pass appropriate orders on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Asst. Registrar(W)

//True Copy//


Sub Asst. Registrar

To

1. THE CHAIRMAN,
THE TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LTD.,
NO.144, ANNA SALAI, TNEB,
CHENNAI

2. THE CHIEF ENGINEER (PERSONNEL)
TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LTD.,
NO.144, ANNA SALAI, TNEB,
CHENNAI

AR 0065426

3. THE SUPERINTENDING ENGINEER
TIRUPATTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LTD.,
TIRUPATTUR, VELLORE DISTRICT

4. THE GENERAL SECRETARY
TNEB ENGINEERS SANGAM,
NO. 793, ANNA SALAI, CHENNAI 600 002

5. THE SUPERINTENDING ENGINEER
METTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU EB- GENERATION AND DISTRIBUTION
CORPORATION LTD., METTUR

6. THE SUPERINTENDING ENGINEER
CUDDALORE ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU ELECTRICITY GENERATION AND DISTRIBUTION
CORPORATION LTD. CUDDALORE

7. THE SUPERINTENDING ENGINEER
UDUMALPET ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU ELECTRICITY GENERATION AND DISTRIBUTION
CORPORATION LTD. UDUMALPET

8. THE SUPERINTENDING ENGINEER
TIRUPATTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMILNADU ELECTRICITY GENERATION AND DISTRIBUTION
CORPORATION LTD. TIRUPATTUR.

9. THE SUPERINTENDING ENGINEER
NON CONVENTIONAL ENERGY SOURCES TAMIL NADU
GENERATION AND DISTRIBUTION CORPORATION LTD
TIRUNELVELI

10. THE SUPERINTENDING ENGINEER
METTUR ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD METTUR-1

11. THE SUPERINTENDING ENGINEER
MADURAI ELECTRICITY DISTRIBUTION CIRCLE/
METRO TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD MADURAI-7.

12. THE SUPERINTENDING ENGINEER
KANYAKUMARI ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD KANYAKUMARI.

AR 0065427

13. THE SUPERINTENDING ENGINEER
KRISHNAGIRI ELECTRICITY DISTRIBUTION CIRCLE
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD KRISHNAGIRI AT DHARMAPURI.

14. THE SUPERINTENDING ENGINEER
PUDUKOTTAI ELECTRICITY DISTRIBUTION
CIRCLE/METRO TAMILNADU GENERATION AND
DISTRIBUTION CORPORATION LTD. PUDUKOTTAI.

1 cc to Mrs. R. Varalakshmi, Advocate, Sr.No. 74599
1 cc to Mr. R. Sunil Kumar, Advocate, Sr.No. 74561
1 cc to Mr. L. Chandrakumar, Advocate, Sr.No. 74824
3 ccs to Mr. S. N. Ravichandran, Advocate, Sr.No. 74461

KJI, VD(CO)
SR, KM, PMK, SRA/10.12.2012.

W.P. Nos 29502 of 2012 and batch cases

AR 0065428

W.P. NOS. 29502 / 2012
TO
29515 / 2012

HIGH COURT OF JUDICATURE	
MADRAS.	
SO. NO.	74761
Carbon Copy application	
made.....	7/12/2012
Application Returned.....	200
Application Represented.....	200
Copy made ready.....	7/12/2012
Copy Delivered.....	7/12/2012
Section Officer	