

(1995) 09 MAD CK 0088
In the Madras High Court
Case No : W.A. No's. 375, etc of 1995

P. Arul and Others

APPELLANT

Vs

Tamil Nadu State Electricity Board and Others

RESPONDENT

Date of Decision : 20-09-1995

Acts Referred:

Electricity (Supply) Act, 1948 — Section 15, 78, 78(A)(1)

Citation : (1996) 1 LLJ 376

Hon'ble Judges : K.A. Swami, C.J;D. Raju, J

Bench : Division Bench

Advocate : K. Chandru and R. Gandhi, S.C. for R.G. Narendran, for the Appellant; Altaf Ahmed, ASG for C.S. Krishnamoorthy and R. Muthukumaraswamy, G.P., for the Respondent

Final Decision : Allowed

Judgement

Raju, J.—These batch of cases involve for consideration identical questions of law on almost similar facts de hors the differences and various form and nature of the relief sought for in the different writ petitions. The nature of grievance, the basis of the action and claims made and substance as well as ultimate relief sought for in all these cases are one and the same.

2. The origin and historical background of the claim requires reference to understand and appreciate the grievances and the claims made in all these writ petitions. The Parliament has enacted the Apprentices Act, 1961, Central Act, 52 of 1961, hereinafter referred to as "the Act", in order to provide for the regulation and control of training of apprentices and for matters connected therewith. Pursuant to the same, the Government of Tamil Nadu passed G.O.Ms. No. 1151 Labour and Employment dated July 18, 1979. Though under the provisions of the Act, the Employers are not under any statutory obligations to give full employment to the apprentices whom they trained, as soon as the training is over, taking into account the fact that the apprentices are selected for such training out of the list sent by the Director of Employment and Training, that

the Regulations for direct recruitment to the posts filled up by the apprentices also prescribed the appointment of candidates sponsored by the Employment Exchange, that the Government of India also have set out the procedure for absorption of apprentices on successful completion of the training and issued instructions that there should be no objection for an apprentice in a particular establishment under the Act being employed by it on successful completion of the training without going through the Employment Exchange procedure and that having regard to the large unemployment position prevailing in the State the Government of Tamil Nadu was convinced of the need for acceleration of the absorption of the apprentices trained by the Government establishments and issued certain directions in paragraph 6 of the said order. Subsequently, in the proceedings dated December 6, 1980 the Government issued a further amendment to para 6 of the earlier order dated July 18, 1979 as hereunder;-

"6. The Government accordingly direct that (i) all vacancies arising in establishments should first be notified to the employment exchange concerned requesting them to nominate apprentices trained by the same establishment against the vacancies. If no such candidates are available, the Employment Exchange will issue a non availability certificate to the employers to enable them to appoint apprentices trained by the same establishment and passing out in the recent batch.

(ii) The rule of reservations cannot be ensured at the stage of sponsoring by the employment exchanges because the scheduled caste/backward classes apprentices sponsored by the employment exchanges may or may not be selected by the appointing authorities on the basis of merits qualifications required for the posts. But the rule of reservation should be followed while absorbing the apprentices."

3. The Government of India also issued a communication in D.O.No. DGET-1/83-AP dated April 21, 1983, Secretary, Ministry of Labour and Rehabilitation, New Delhi, containing the guidelines as approved by the committee of Secretaries for absorption of the trained apprentices, in the following terms:-

"2. The Committee decided that the following guidelines may be issued in this regard :

1. Ministers will endeavour to ensure that 50% of the total semi- skilled and skilled categories of jobs would be filled in by direct recruitment in the establishments under them and this requirement should be ensured while finalising agreements with Labour Unions, in future. The present agreement may, however, be allowed to run their courses without modification.

2. 50% of the direct recruitment vacancies may be filled by trained apprentices, first preference being given to the apprentices trained in the same establishment and thereafter to those trained by other establishments.

3. Two months before the training of apprentices is scheduled to be over, public

sector undertakings will intimate the designated Officer in the Ministry of Labour the number of apprentices trained and the number likely to be retained or absorbed within the undertakings/establishments.

4. The Minister of Labour shall endeavour to find alternative for the remaining apprentices. In so far as the Ministry of Railways are concerned, the number of vacancies allocated for training of apprentices will be consistent with the number likely to be absorbed in railway employment and the number as can be usefully employed outside with the background of training received in the Railway.

5. The Committee, also desired that the practice of public sector undertakings entering into with the labour union committing themselves to employ only the kith and kin of the employees should be discouraged.

I have to request that the above guidelines may be brought to the notice of all the establishments/public sector undertakings under the control of your Ministry, under intimation to this Ministry for compliance.

6. In accordance with the recommendation No. 3 the undertakings may also be advised to send, in the proforma, enclosed, the information regarding the number of Apprentices trained/absorbed, by name to the Directorate of Apprenticeship Training, Ministry of Labour, Directorate General of Employment and Training Sharam Shakti Bhavan, New Delhi."

4. The Tamil Nadu Electricity Board has also issued in Board's Proceedings B.P.Ms (Ch.) No. 242, Secretariat Branch dated June 26, 1984, the following orders relating to the preference to be granted in giving employment to trained apprentices:

"Proceedings :

In BP first cited, orders were issued to the effect that in the matter of employment of Engineering Graduates under the Board preference should be given to those who have satisfactorily completed the Apprenticeship training over raw graduates. Those completed the Apprenticeship the same concession was extended in the selection of diploma holders also on the board proceedings second cited provided they were sponsored by the respective employment exchanges.

2. Under the Apprentices Act, the employers are not under any obligation to give full employment to the apprentices whom they trained as soon as the training is over. Further, there were difficulties in suspending employment exchange criterion in that the Backward Classes and Scheduled Castes may not receive proper representation and senior trained apprentices, who were without a job may not get a chance for appointment at all. With a view to obviate these difficulties, Government have in the Government Order read above issued orders setting out certain procedure to be followed in the matter of absorption of Apprentice trainees in the same establishment where they have undergone training.

3. In the light of the orders of Government in the said Government Order and subsequent amendment issued in their letter fourth cited, the absorption of apprentices in the Board after their successful completion of Apprenticeship training in the Tamil Nadu Electricity Board has been re-examined and after careful consideration and in modification of orders already issued, the Tamil Nadu Electricity Board hereby directs that the Engineering graduates, Diploma-holders and industrial training Institute trade certificate holders who have completed satisfactorily the period of Apprenticeship Act in the board be considered for selection to posts which are filled by direct recruitment through the employment exchange in preference to others by adopting the following procedures provided they possess the qualification prescribed for the post.

4.(i) All vacancies to be filled up by direct recruitment through employment exchanges, other than the vacancies which could be filled by internal selection, should first be notified to the employment exchanges concerned requesting the board to nominate Apprentices trained by the Tamil Nadu Electricity Board against the vacancies. If no such candidates are available, the Apprentice trained by the Tamil Nadu Electricity Board and passing out in the recent batch on successful completion of the training can be appointed to suitable posts after obtaining a non-availability certificate from the Employment Exchange subject to other conditions with regard to qualification age, etc. being satisfied.

(ii) The rule of reservation should be followed while absorbing the Apprentices as contemplated in para (3)(i) above without any deviation (i.e) if the immediate beneficiary is a backward class candidate and when the next turn is to be filled by Scheduled Castes Candidates or vice versa, the apprentice is not entitled for absorption before filling the earlier turn reserved for Scheduled Caste/Scheduled Tribes or backward Classes, as the case may be. In that case, the apprentices are at liberty to get themselves registered with the employment exchanges, which will sponsor such candidates as and when vacancies are notified."

5. While that was the position prevailing, the Tamil Nadu Electricity Board, by its proceedings B.P.Ms. (FB) No. 69 Secretariat Branch, dated September 18, 1988 cancelled the earlier orders in B.P.Ms.(Ch.) No. 2422 SB dated June 26, 1984 in the following terms:-

Proceedings

As per the Orders issued in the B.P. cited, Engineering Graduates Diploma Holders and N.T.C. holders, who have completed satisfactorily the period of Apprenticeship training under the Apprenticeship Act in the Board are considered for selection to posts, which are filled up by direct recruitment through Employment Exchanges in preference to others following certain procedure as specified therein. The Tamil Nadu Electricity Board has reviewed the above orders and after careful consideration has decided to discontinue the procedure of giving preferences to candidates who have completed the Apprenticeship training in the Board.

2. Accordingly, the orders issued in the B.P. cited are cancelled with immediate effect."

6. The cause of action which triggered this spate of litigation is the orders passed by the Board in Permanent B.P. (Ch) (Adm.Per.) No. 176 dated May 13, 1994 directing the recruitment of candidates through employment exchange to fill up the vacancies numbering about 3063 positions of initial level categories of different posts. The petitioners are concerned, in these writ petitions with reference to the posts of Technical Assistant (Electrical) to the tune of 1075 in number at that time and with subsequent addition thereto in number due to lapse of time and the vacancies arising thereafter. It is in the above circumstances, that writ petitions came to be filed either for writs of certiorarified mandamus, to call for and quash the Board's Proceedings No. 69, dated September 13, 1988 and for consequential directions to the respondents to sponsor the names of the petitioners and to consider their claims and appoint them to suitable posts, they being trained apprentices who successfully completed their apprenticeship training and/or for writs of mandamus simpliciter for direction to the respondents to give preference to the trained apprentices in the matter of filling up the posts of Technical Assistant (Electrical) in the services of the Board. That part, a batch of writ petitions filed immediately on the issue of the proceedings dated May 13, 1994, came to be finally disposed of by a learned single Judge of this Court on December 20, 1994 in W.P.Nos 12091 of 1994, etc. by dismissing the writ petitions. This necessitated the filing of writ appeal by such petitioners. For that reason the writ petitions filed subsequently were also directed to be posted and heard along with the writ appeals before us.

7. Mr. K.Chandru, learned counsel appearing for the appellants in W.A.No. 375 and 376 of 1995 contended that the respondent- Electricity Board is estopped by the principles of promissory or equitable estoppel from going behind the scheme earlier announced for the training and absorption of apprentices and persons like the appellants who underwent successfully the apprenticeship under the Board under an agreement and the Board cannot turn round and state that there is no obligation cast upon the Board to consider preferentially the claims of the apprentices. The principles of legitimate expectations was also pressed into service to contend that the appellants and persons similarly placed underwent the apprenticeship training with the fond hopes that at the end of their course they will be preferentially considered and, therefore, the respondents cannot arbitrarily deny the reasonable and legitimate expectations of the appellants. Finally, it was contended that the State and the Central Government have passed orders directing the absorption of the apprentices who have successfully completed their apprenticeship with the Board and those instructions and directions are binding upon the respondent - board u/s 78-A of the Electricity (Supply) Act, 1948 and that so long those directions have not been withdrawn or varied, the respondent -Board is bound by the same, and cannot on its own, act in derogation thereof.

8. Mr.R.Gandhi, learned Senior Counsel appearing for the petitioners in some of the writ petitions, while adopting the contentions raised by Mr. K.Chandru, also contended that the apprentices who have been given training by spending substantial funds and time and the Board cannot afford to ignore their claims for absorption and doing so, would amount to wasting of public funds and energy and deprivation to the Board of the efficient services of such trained personnel in their own organizations. It was also argued that since such of the Undertakings or employers give preference to the respective apprentices only those who successfully completed their apprenticeship with the Board cannot successfully be got considered by other establishments and it is but necessary that the respondent - Board shall preferentially consider them for absorption and appointment. Mr. M.Venkatachalapathy, learned counsel appearing for some of the appellants and petitioners while reiterating the above submissions of the learned counsel, referred to supra, also contended that the orders of the Board dated September 13, 1988 resolving to discontinue the preference in favour of the trained apprentices for employment are arbitrary, unreasonable and opposed to Articles 14, 16 and 39(a) of the Constitution of India and, therefore those orders of the Board are liable to be set aside and the claims of the various apprentices who have successfully completed their training on being selected for such training itself on the basis of merit taking into account the marks obtained in their qualifying examination as well as the interview conducted by the committee constituted specially for the purpose of selecting apprentices for training cannot be lightly ignored and they be treated as raw hands, with no special distinction or difference when considered with candidates who did not undergo such apprenticeship training. All the learned counsel also raised in unison a plea that the present move and also the offer now made that the Board is prepared to consider the claim of the apprentices who have successfully completed the training along with the other candidates before the selection committee for interview and if they are found to be equally placed in the marks awarded in the interview compared to a raw candidate they will be given preference, is designed with ulterior motive to achieve collateral purposes and the apprentices, if asked to once again undergo the process of selection in the interview will be subjected to hostile treatment in the hands of the respondent to ensure that the respondent-Board achieves its object of discontinuing the preference earlier given. The other learned counsel appearing on behalf of the petitioners have adopted the submissions made by the learned counsel referred to supra.

9. Mr. Altaf Ahmed, learned Additional Solicitor General, appearing for the respondent -Electricity Board while refuting the various contention on behalf of the appellants/ petitioners, contended that the claims based upon the plea of promissory estoppel/or legitimate expectations do not hold water in the teeth of the various judicial pronouncements and even on the facts and circumstances of the cases before us and, therefore, they do not merit acceptance of this Court. As for the plea raised on the basis of the directions of the Governments, it was

contended by the learned Additional Solicitor General that those directions sought to be relied upon for the petitioners are not within the purview of Section 78-A, in that they do not pertain to any policy for the guidance of the Board and on the other hand is merely a matter relating to recruitment of personnel and that except to the extent otherwise specifically stipulated u/s 15 of the Act, the appointment of the officers and employees as may be required to enable the Board to carry out its functions under the Act is within the exclusive purview of the Board and not depending upon either any approval or guidance or control of the Government and that, therefore, the Board was well within its powers to pass the proceedings dated September 18, 1988 resolving to discontinue the procedure of giving preference to candidates who have completed apprenticeship training in the Board and accordingly cancel its earlier orders on the subject. Prescribing conditions of service has also been said to be not either an essential or policy matter and at any rate, third parties to the orders or proceedings of the Board cannot claim any vested rights. It was also contended for the respondent-Board that at any rate, the orders of the Government cannot be considered to create a quota in favour of the apprentice trainees. The further submissions on behalf of the respondent-Board was that countenancing the plea on behalf of the petitioners/appellants for appointment straightaway would constitute denial of equality of opportunity and equal protection of laws to other qualified persons and eligible for appointment and that fairness requires that the petitioners/appellants must also attend the interview along with other candidates and undergo and subject themselves to the process of selection. Such procedure only, according to the respondent-Board would help the Board also, in the interests of public to get better human material from a wide range or horizon of candidates fit for the tasks to be performed by the Electricity Board, selected for appointment.

10. The learned Additional Solicitor General contended that guidelines have been issued for the use of the selection committee to assess the competitive and inter-se merits of the candidates by awarding marks under four classified heads and it is for the petitioners/ appellants to enter into the arena of competition with the other candidates for selection and the question of preferring the apprentice trainees would arise only when there is equality of marks in a given case and to stake claims before this Court, without doing so and attempt to exclude other candidates even at the threshold would render these petitions and appeals premature and liable to be rejected as such. Finally, the plea taken on behalf of the respondent-Board is that even if the earlier proceedings dated September 13, 1988 was held bad, it will not have the effect of bringing back into existence the earlier Board Proceeding dated June 26, 1984. The question of preference, it has reiterated, will arise only when other things are being equal.

11. The Learned counsel appearing on either side have relied upon several judicial pronouncements and a reference to them will be made hereinafter before an actual consideration of the respective submissions on either side.

12. In *Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others*, the Supreme Court construed the scope and purport of Section 22 of the Apprentices Act, 1991 and Rules 3, 6, 7, and 11 of the Apprentices Rules, 1991 in respect of a claim for appointment made by the apprentices who were trained by the Uttar Pradesh State Road Transport Corporation. Though the Allahabad High Court appears to have sustained the plea based on promissory estoppel, the Apex Court did not approve of the same. While advertent to Section 22 of the Act which states that it shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment unless there is a condition in the contract to the contrary, the Court held that it would not be just and proper to go merely by what has been stated in Section 22(1) of the Act or for that matter, in the model contract form. According to the Apex Court, what is required is to see that the nation gets the benefits of time, money and energy spent on the trainees, which would be so when they are employed in preference to non-trained direct recruits and that such construction would also meet the legitimate expectation of the trainees. Proceeding further, the Court observed as hereunder: at page 858

"12. In the background of what has been noted above, we state that the following would be kept in mind while dealing with the claim of trainees to get employment after successful completion of their training:

(1) Other things being equal, a trained apprentice should be given preference over direct recruits.

(2) For this, a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in *Union of India (UOI) and Others Vs. N. Hargopal and Others*, would permit this.

(3) If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the service rule concerned. If the service rules be silent on this aspect, relaxation to the extent of the period for which the apprentice had undergone training would be given.

(4) The training institute concerned could maintain a list of the persons trained year wise. The persons trained earlier would be treated as senior to the person trained later. In between the trained apprentice, preference shall be given to those who are senior."

13. In *Narinder Kumar and Others Vs. State of Punjab and Others*, , the Apex Court was concerned with a claim for appointment of personnel after completion of apprenticeship when the clause in contract provided that the apprentice shall be absorbed in the department if there is a vacancy. It was held therein by the Court that the object of the provision taken together with Section 22(2) of the Act is to guarantee to the extent of the existence of vacancies that the apprentices will not be rendered jobless after they complete their training.

14. In 1985 (II) LLN 440 (Naresh Chander and Ors. v. Hindustan Insecticides, Ltd), the Division Bench of the Delhi High Court had an occasion to consider the scope of Section 22 of the Act and it was held therein that the trained apprentices under the Apprentices Act have a legitimate expectation and interest to seek employment and recognise a legal remedy, against a public undertaking which is an instrumentality of the State. Holding further that the employment of such apprentices must be ensured at least at the ratio of 50:50 between apprentices and unskilled workmen proposed to be recruited. Denial of the claim by an instrumentality of the State was held to be arbitrary and unreasonable.

15. In Mohinder Sain Garg Ors. Vs. State of Punjab and Others, , the Supreme Court was concerned with the question of allocation of marks for selection and appointment in the Subordinate Services through viva voce test. It was held therein on a review of the case law on the subject that in case of composite process of selection comprising written examination and interview of candidates fresh from schools/colleges for public employment, allocation of more than 15 per cent of the total marks for viva voce test would be unreasonable and excessive.

The allocation of 25 per cent of the total marks for viva voce test in that case was held to be arbitrary and excessive.

16. In Madan Lal and Others Vs. State of Jammu and Kashmir and Others, , the Apex Court held that there was no absolute or invariable rule which required the members of the Interview Committee to separately assess and give-marks on listed topics, faculty wise and that a person who had taken a chance to get himself selected, but was unsuccessful, at an impugned interview has no locus-standi to impugn, on the ground of unfairness of interview process or defect in the constitution of Selection Committee.

17. In Ashok Kumar Yadav and Others Vs. State of Haryana and Others, it was held that for selection to be made by the State Public Service Commissions to various services on the basis of written test followed by viva voce test, allocation of 12.2% marks in the case of general candidates and 25% marks in the case of ex- service officers for viva voce test would be reasonable. It was held therein that allocation of 33.3% marks in the case of ex- service officers and 22.2% marks in the case of other candidates for viva voce test for selection to Haryana Civil (Executive Branch) and Allied Services was considered to be arbitrary and the spread of marks with allocation of a high percentage as the one considered by the Apex Court would lead to arbitrariness and unjust selection.

18. In Anzar Ahmed Vs. State of Bihar and others, the Supreme Court held that a provision providing for 50% marks for viva voce and 50% marks for academic performance in respect of a selection to be made by the Public Service Commission for appointment to the post of Unani Medical Officer in the Bihar State Service cannot be held to be arbitrary. It was further held therein that no hard and fast rule regarding the precise weightage to be given to viva voce test

as against written examination, can be laid down and that the weightage must vary according to the requirement of service.

19. In AIR 1968 Ker 77 (A.M. Mani v. State Electricity Board) it was held by a full Bench of the Kerala High Court that the State Electricity Board functioning under the Electricity Supply Act, 1948 is an autonomous body and its powers cannot be fettered or destroyed by any manner of directives from the Government and that a direction issued u/s 78-A of the Electricity Supply Act cannot extend to framing of rules regarding conditions of services of its employees. That was a case wherein the Electricity Board framed rules based on the directives issued by the Government to increase the age and then again to reduce it. The Full Bench held that since the Government had no powers to issue certain directions, such directions cannot be enforced by issue of a writ and the petitioner therein cannot claim to have any right to maintain, a writ to enforce such a claim. The Full Bench was emphatic in holding that a direction u/s 78-A cannot extend to the framing of a rule by the Board regarding conditions of service of its employees.

20. In Poddar Projects Ltd. (Multi Steels) Vs. The A.P.S.E. Board and Others, , a Division Bench of the Andhra Pradesh High Court, while considering the scope of Section 78-A of the Electricity (Supply) Act, 1948 held that the said provision does not authorise granting of concessions to individual consumers and that even a direction purported to have been given u/s 78-A when it is outside the powers of the Government under the said provision to issue such direction. The Electricity Board is not bound to obey and no third party acquires any right under such an order.

21. In Andhra Pradesh State Electricity Board Vidyut Soudha and others Vs. The Gowthami Solvent Oils and another, , it was held that a direction to charge concessional rate of Rs. 50/- per Horse Power for agricultural pump-sets is one relating to policy matter and it was competent for the Government to issue. It was also high-lighted therein that a direction issued u/s 78-A should be consistent with the provisions of the Act and the Rules and any direction issued contrary to any particular provision of the Act or the Rules would be outside the purview of the Rules and Section 78-A of the Act.

22. In Rakesh Ranjan Verma and others Vs. State of Bihar and others, the Supreme Court held that the State Government cannot direct the Bihar State Electricity Board to absorb/to appoint the petitioners before the Court in the then vacant substantive post of Junior Electrical Engineer. It was further held therein that under the provisions of the Electricity (Supply) Act, 1948, though the Government may issue directions to the Board on questions of policy, so far as the Appointment of staff is concerned, Section 15 empowers only the Board concerned to appoint such officers and employees as may be required to enable the Board to carry out its functions under its Act with an exception that the appointment of the Secretary is subject to the approval of the State Government. Consequently, it was held that so far as the other staff is concerned, the power

lies exclusively with the Board to make an appointment of all officers and employees as may be required.

23. In *M/s. Real Food Products Ltd. and others, etc. etc., Vs. Andhra Pradesh State Electricity Board and others*, , the nature and scope of powers u/s 78-A of the Electricity (Supply) Act, 1948 came up for consideration before the Supreme Court. This was rendered on appeals filed from the decision of the Division Bench of the Andhra Pradesh High Court reported in *Andhra Pradesh State Electricity Board Vidyut Soudha and others Vs. The Gowthami Solvent Oils and another*, . It was held therein, where the direction of the State as in that case was to fix a concessional tariff for agricultural pump-sets at a flat rate per Horse Power, it does relate to a question of policy which the Board must follow. At the same time, it was clarified that however, in indicating the specific rate in a given case, the action of the State Government may be in excess of the power of giving a direction on the question of policy, which the Board, if its conclusion be different may not be obliged to be bound by.

24. In an unreported decision in W.P. No. 11807 of 1988 dated November 15, 1988 (*P. Dharmaraja And 123 Ors. v. The Tamil Nadu Electricity Board and Anr.*), Bak-thavatsalam, J. had an occasion to deal with the claim of apprentice trainees for appointment and the learned Judge held that the Board cannot unilaterally change the policy to the detriment of the petitioners therein. This view was taken on the basis of the Board's proceedings dated June 26, 1984 which indisputably gave preference to the candidates who have undergone the apprenticeship training under the Board. The learned Judge also applied the principle of promissory estoppel to the case in favour of the petitioners in that case. In spite of the same, the learned Judge while allowing the writ petitions, observed, "However, it will be open to the respondents to adhere to the impugned proceedings in B.P.No, F.B 69 (Secretariat Branch) dated September 15, 1988 in future.

25. We have carefully considered the submissions of the learned counsel appearing on either side. It would be appropriate to first consider the issue relating to the scope and purport of Section 78-A of the Electricity (Supply) Act, 1948 and the further question as to whether the direction issued in this case by the Government relates to question of policy of State Government and, therefore, within the limits of Section 78-A of the Act. The several decisions adverted to would go to show that any view expressed by the State Government on a question of policy is in the nature of a direction to be followed by the Board in the area of policy to which it relates. The Board shall be guided and obliged to give effect to such directions, as long as it is a direction on questions of policy. The Electricity (Supply) Act, 1948 has been enacted to provide for the rationalisation of the production and supply of electricity for taking measures conducive to electrical developments and for all matters incidental thereto. It cannot be seriously doubted or disputed that the appointment of the necessary staff would be a matter incidental to and essentially interlinked with the avowed

object and the purposes for which the Electricity Boards have been constituted. The directions of the State Government which were the subject matter of consideration by the Full Bench of the Kerala High Court in the decision reported in AIR 1968 Ker 77 (supra) and by the Apex Court in the decision reported in Rakesh Ranjan Verma and others Vs. State of Biha and others, were directions issued in a given case and not generally by way of declaration of any policy of the, Government to be adhered to and implemented by the Board. So far as the directions presently under our consideration are concerned, we cannot lose sight of the fact that as a matter of policy to be adopted on an all India basis after the coming into force of the Apprentices Act, 1961, the Government of India, Ministry of Labour and Rehabilitation, has issued guidelines and the State Government merely undertook follow up action by issuing directions to the respondent - Electricity Board in respect of the grant of preference relating to the employment of trained Apprentices under the Act. As a matter of fact, even the Supreme Court in the decision reported in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, was pleased to point out that when the material resources of the Country are limited and the resource-crunch is acute for our Country with : the result whenever and wherever public money is invested, it has to be seen that there is a proper utilisation of the same in the sense that the public ultimately gets benefit of the same, while dealing with the necessity to provide a proper utilisation of the services of trained apprentices. That apart, the Central Government and State Governments have chosen to issue the directions only for the purpose of effectively implementing the statement of object and reasons contained in, the Apprentices Act, 1961 and the Rules made thereunder which were really aimed to ensure that the training of apprentices is streamlined in the back-drop of increasing demands for skilled draftsmen in the wake of large-scale industrial development of the Country and, therefore, provide for the regulation and control of training of apprentices both in order to solve the immediate unemployment problem in the country and secure adequate competence and skill required for various occupation leading to suitable employment in organised industries. Consequently, a direction of the nature contained in the Government Orders dated July 18, 1979 as amended by the Order dated December 6, 1980 cannot be said to have been issued in a matter pertaining to an individual case. On the other hand, having regard to the historical background and the basis as well as need felt for issuing the directions of the nature both by the Central Government and the State Government, it can be safely and reasonably presumed and taken for granted that the directions partake the nature of policy of the Government generally to be adhered to and implemented by the respondent-Electricity Board. The directions were not concerned with any one individual appointment or appointment in respect of a particular group of persons, but really relates to the principles generally to be adhered to by the Electricity Board in the matter of dealing with the apprentices who were trained by the Electricity Board under a statutory training programme by spending considerable time, money and energy.

26. The reliance upon the decisions of the Full bench of the Kerala High Court and the decision reported in Rakesh Ranjan Verma and others Vs. State of Bihar and others, as also the provision contained in Section 15 of the Electricity Supply Act are wholly inappropiate. The provisions of Section 15 are not to be construed so as to mean that the State Government cannot issue any direction in the nature of a policy to the concerned Electricity Board in respect of the Officers and the employees of the Board, including the mode and manner of recruitment in general nor could it be legitimately stated that merely because a specific provision is made u/s 15 enabling the Board to appoint the officers and employees required, the said subject is completely taken out of the pur-view of a direction which could be issued u/s 78-A of the Act. It was really a plea on similar nature projected based on Section 49 of the Electricity Supply Act vis-a-vis a direction u/s 78A of the Act that has been rejected by the Apex Court in the decision reported in M/s. Real Food Products Ltd. and others, etc. etc., Vs. Andhra Pradesh State Electricity Board and others, by clarifying the position that it is not the mere existence of a provision that disentitles the Government from issuing a direction u/s 78-A of the Electricity Supply Act and that so long as the direction partakes the character of policy and not a specific direction in a given case, it would relate to a question of policy only. The fact that the proviso specifically provides for the appointment of the Secretary, subject to the approval of the State Government, is no indicator to point out that in respect of other staff, the Government has no hold even if it could issue a direction otherwise u/s 78-A of the Act. On the other hand, the need for the proviso can be spelt out as necessitated due to the fact it is with reference to the specified post or a given office among the totalities of the officers and employees. Though in the counter affidavits, a stand has also been taken by the respondent-Board that the directions under consideration have not been shown to have been issued u/s 78-A of the Electricity Supply Act, on the face of the order, it was not seriously pursued when it was pointed out by us that the consideration in such cases would be not as to whether in the orders or directions specifically a reference is made to Section 78-A of the Act, but, on the other hand, whether the orders and directions under consideration could be legitimately traced and lawfully attributed to the source of powers u/s 78-A of the Electricity (Supply) Act. In view of the above, we have no hesitation to hold that the orders of the State Government in G.O. Ms.No. 1151, Labour and Employment, dated July 18, 1979 as amended by the subsequent orders communicated in the letter dated December 6, 1980 are binding upon the respondent Electricity Board as lawful directions issued by the Tamil Nadu State Government u/s 78-A of the Electricity (Supply) Act, 1948.

27. For the above reasons, we are unable to agree with or approve the view taken by the learned single Judge in holding that the orders of the Government sought to be relied upon in this case cannot be considered to have been issued u/s 78-A of the Electricity (Supply) Act, 1948. Even de hors the above, the Appellants/Petitioners would be entitled to relief even under the decision of the Supreme Court in Uttar Pradesh State Road Transport Corporation and another

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28. So far as the plea based upon the principle of promissory estoppel is concerned, we are of the view that there is absolutely no merit in the said claim, and the same cannot be continued after the decision rendered by the Supreme Court reported in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, . The Apex court, both on the principles of legitimate expectations and greater considerations of policy and the need to conserve the money, time and energy spent, has given specific directions governing the absorption and appointment of the trained apprentices. The views expressed by the learned single Judge cannot also be accepted to be correct after the decision of the Apex Court in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, wherein it was held that the apprentices trained under the Act were entitled to have and legitimately expect for their appointment in the vacancies arising after their successful completion of the training. The decision of Bakthavatsalam, J., in the unreported case (supra) cannot also help the parties, in any manner, having regard to the reasoning of the learned Judge and the subsequent declaration of law otherwise. Of course, the learned Judge ensured that the decision rendered by him was for the case before him and the orders of the Board discontinuing the facility and preference earlier given was allowed to be adhered to or implemented prospectively from the date of the said proceedings and hence, it becomes necessary for this Division Bench to decide the case, on its own merits in the light of the points urged.

29. The learned Additional Solicitor General made forceful and eloquent submissions on the guideline No. (1) in para 12 of the decision reported in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, directing that other things being equal a trained apprentice should be given preference over direct recruits, and contended that the question of preference would arise only if and when the petitioners/appellants also participated in the selection process by offering themselves as candidates and provided on the allocation and assignment of marks the trainee apprentices or such of those who attended the selection secured marks equally. In substance, the contention appears to be, unless the apprentice trainee also gets as much marks as any other candidate and ranks equal or reach a stage of parity, there is no scope for applying the rule of preference visualised and recognised by the Apex Court. We have bestowed our careful thought on the submission but are unable to persuade ourselves to agree with the said submission which, if countenanced, will defeat the very object and the purpose of the decision and also encourage and pave way for abuse of the selection process by so arranging or manipulating the selection process of allocating marks in such a manner as to perpetuate the decision of the Board to cancel the earlier orders giving preference or discontinue the practice of preferring the apprentice trainees to the direct recruit raw hands. On a careful

analysis of the directions and guidelines issued by the Supreme Court, we are of the view that their Lordships of the Supreme Court do not appear to have subscribed to the idea of subjecting the apprentices who have successfully completed their training to any other or further selection process except satisfying the norms formulated in paragraph 12 and the person concerned being so absorbed and appointed thereafter according to the formula No. (4) of para 12 of the decision in *State of Rajasthan Vs. Aruna Devi and Others*, viz., year wise seniority and among them as per inter-se seniority. The fact that their Lordships thought fit to dispense with even the requirement of being sponsored by the Employment Exchange, the undergoing of any written test and age bar would support and justify our manner of understanding of the decision of the Apex Court. The submission of the learned Additional Solicitor General that it could not have been the intention of their Lordships of the Supreme Court who decided (1995-II-LLJ-854) : *Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others*, to ignore or by-pass the rule of equality and equal protections of laws to other candidates as well and deny also the Board the wide range of choice of consideration to select best among the available talent and human material, though appears to be attractive as an argument but does not really appeal to us as of any merit for the reasons stated supra. Even that apart, we are unable to appreciate how mere would be any infringement of the principle of equality in appointing the trained apprentice trainees who were earlier sponsored by the respective Employment Exchange and their educational or academic qualifications were verified and a selection committee selected them from among a large number of candidates and that they underwent the apprentice training given by the Tamil Nadu Electricity Board and successfully completed such training the above special factors would make them stand separately as a distinct, independent and separate class from those who without such training has now applied for appointment by direct recruitment and there is no scope for treating the trained apprentices and non-trained candidates now applied as raw hands as belonging to the same class or category. Invidious or hostile discrimination or infringement of the equality clause will arise only if the inherent differences in these two categories of candidates are ignored and they are treated on par and certainly not if these two different classes of candidates are treated separately and that the apprentice trainees who have successfully completed their apprenticeship are given preference for appointment in terms of the decision of the Supreme Court in *Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others*, . A passing reference has also been made to the category of apprentice trainees who have got their training otherwise before a different employer than the respondent-Electricity Board, by the learned Additional Solicitor general. We are of the view that there could be no difficulty in holding that for the vacancies available with a particular Employer and in an Establishment concerned, it is those who have successfully completed their apprenticeship training in that particular Establishment or under an Employer,

would be entitled to preference in that particular Establishment or with the employer concerned.

30. The further plea on behalf of the respondents that the directions issued u/s 78-A of the Act do not confer any right in a third party like the petitioners does not merit acceptance. If the statutory orders of the State Government confer some benefit though indirectly upon a citizen, as the beneficiary of the orders of the Government, it is always open to the person entitled to such benefit to approach this Court and this Court can always direct an instrumentality of the State to adhere to the orders of the Government and give relief to the beneficiaries thereof. To deny such rights at this stage of the development of the constitutional rights and the vindication of the Rule of law, will be to ignore realities and practicalities of the situation, apart from allowing injustice to be rewarded with a premium therefore.

31. For all the reasons stated above, we allow the Appeals and the Writ Petitions in the following terms;

(1) The order of the learned single Judge dated December 20, 1994 in W.P.Nos. 12091 of 1994 etc., is set aside.

(2) The orders of the State Government dated July 18, 1979 as amended by the orders dated December 6, 1980 constitute directions on questions of policy within the purview of Section 78-A(I) of the Electricity (supply) Act, 1948 and shall be binding upon, and given effect to by, the Tamil Nadu Electricity Board.

(3) The Board's Proceedings dated September 18, 1988 impugned in some of the writ petitions in as much as it is opposed to the statutory directions of the State Government u/s 78-A(I) of the Electricity (supply) Act, 1948 as such it is unenforceable and cannot stand in the way of the appellants/petitioners getting their claims considered preferentially to those direct-recruit raw hands. Therefore, the said proceedings of the Board are quashed.

(4) The Tamil Nadu Electricity Board shall meticulously and effectively apply the directions contained in the order of the State Government dated July 18, 1979 as amended by the order dated December 6, 1980 referred to above in direction No. 2, and the ratio of the decision of the Supreme Court of India reported in Uttar Pradesh State Road Transport Corporation and another Vs. Uttar Pradesh Parivahan Nigam Shishukhs Berozgar Sangh and others, and consider the claims of trainees apprentices who have successfully completed their apprenticeship, for employment in terms of the guidelines, principles and directions contained in paragraph 12 of the said decision.

(5) The apprentice trainees, who have successfully completed their training with the Tamil Nadu Electricity Board, shall not be subjected to any further test or process of selection, except the criteria and guidelines contained in para 12 of the Supreme Court decision (supra) and the orders of the Government issued u/s 78-A(1) of the Electricity (Supply) Act, 1948 referred to above in the directions

at Nos. 2 and 4.

No costs.