

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.8948 of 2014

& M.P.Nos.1 and 2 of 2014

P. Mohan

...Petitioner

- Vs.-

1. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
800, Anna Salai
Chennai-600 002.
 2. The Chief Engineer/Personnel
TANGEDCO No.144, Anna Salai
Chennai-600 002.
 3. The Assistant Director
Professional and Executive Employment Exchange
No.56, Santhome High Road
Chennai-600 004.
- ...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the selection of candidates for the post of Assistant Engineer/Electrical (EEE) by direct recruitment 2013-2014 in Tamil Nadu Electricity Board/TANGEDCO published by respondents 1 and 2 in the website on 24.2.2014 and quash the same insofar as it relates to the non-selection of the petitioner in Schedule Caste Physically Handicapped Quota is concerned and consequently direct the respondents 1 and 2 to select and appoint the petitioner as Assistant Engineer/Electrical (EEE) in Scheduled Caste Physically Handicapped Quota in the Tamil Nadu Electricity Board/TANGEDCO.

For Petitioner : Mr.M. Balasubramanian

For Respondents: Ms. R.Varalakshmi
for RR1 and 2
Mr.M.S.Ramesh
Addl. Government Pleader for R3

ORDER

The petitioner challenges the select list published by the Tamil Nadu Electricity Board (hereinafter referred to as "TANGEDCO") dated 24 February 2014 relating to the selection for appointment to the post of Assistant Engineer/Electrical (EEE) on the ground that his application was not considered under 3% quota reserved for physically handicapped candidates.

Facts in nutshell:

2. TANGEDCO issued a notification for appointment to the post of Assistant Engineers in various branches by direct recruitment for the year 2013-2014. The notification contained a statement to the effect that there are 275 posts to be filled up by way of direct recruitment. The name of the petitioner was sponsored by the Employment Exchange. The petitioner attended interview on 21 November 2013. Since the petitioner is a physically handicapped person, his case was recommended under the reserved category. However, TANGEDCO failed to consider the case of the petitioner under the reserved category resulting in selecting others. The petitioner therefore challenges the selection list primarily on the ground that notwithstanding his eligibility, he was not considered against 3% of the vacancies reserved for physically handicapped applicants.

3. The second respondent in the counter affidavit admitted that TANGEDCO has reserved 3% of the post to accommodate physically handicapped candidates. According to the second respondent, the petitioner was sponsored under Scheduled Caste General (non-priority) category. He was not considered against Scheduled Caste priority category - Ortho. It was further contended that TANGEDCO appointed Thiru V. Gopinath in the category Scheduled Caste -Ortho. Since sufficient candidates were not available under the quota reserved for differently abled applicants one post of SC (PH) vacancy would be carried over to the next selection. In short, it is the contention of the second respondent that the employment exchange failed to sponsor the name of the petitioner against the reserved quota and that was the reason for his non-selection.

4. Heard the learned counsel for the petitioner, learned Standing Counsel appearing on behalf of TANGEDCO and the learned Additional Government Pleader appearing on behalf of respondent No.3.

Analysis:

5. There is no dispute that the petitioner is a physically handicapped person. The disability of the petitioner is assessed at 60%. The petitioner registered his name before the third respondent. The registration was under the reserved category. The

second respondent has taken up a contention that the petitioner was not sponsored against the reserved quota by the employment exchange and that was the reason for his non-selection. The falsity of the contention taken by the second respondent is evident from the records produced by the said respondent. The second respondent has produced a copy of the list forwarded by the department of employment and training to TANGEDCO. The said list contained the name of the petitioner at Sl.No.66. The petitioner was described as "Physically Handicapped - Ortho. Therefore it is very clear that the petitioner was sponsored against the vacancies earmarked for "Priority - Ortho". The record therefore speaks itself. The ground taken by the second respondent to non-suit the petitioner therefore has absolutely no legs to stand. The petitioner is perfectly correct in his contention that his candidature was sponsored by the employment exchange against the posts earmarked for physically handicapped.

6. The second respondent has already reserved 3% post for physically handicapped candidates. The counter affidavit proceeds as if sufficient candidates were not available under Scheduled Caste - Ortho and as such one post would be carried over to be filled up by direct recruitment during the ensuing year. The documents available on record very clearly shows that the petitioner is eligible for appointment against the reserved quota. When there is an eligible candidate for appointment under the reserved quota, which is otherwise called as priority category, the second respondent was not correct in treating it as an unfilled category to be filled during the next selection. The petitioner therefore must succeed.

Disposition:

7. In the result, the impugned select list dated 24 February 2014 is set aside. The second respondent is directed to consider the case of the petitioner for appointment to the post of Assistant Engineer/Electrical (EEE) treating him as a candidate under the priority category "Scheduled Caste - Ortho" in the light of the sponsorship made by the employment exchange. In case the petitioner is having the required cut off marks under the priority quota - Scheduled Caste -Ortho he should be appointed. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed as indicated above. No costs. Consequently, the connected MP is closed.

Sd/-
Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

Tr/

To

1. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
800, Anna Salai
Chennai-600 002.
2. The Chief Engineer/Personnel
TANGEDCO No.144, Anna Salai
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3. The Assistant Director
Professional and Executive Employment Exchange
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1 cc to Mrs.R. Varalakshmi, Advocate, Sr. 11337
1 cc to mr.A.S. Kaizer, Advocate, Sr. 11163

W.P.No.8948 of 2014

AK (CO)
kk 13/3

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