

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

WRIT PETITION No.36956 of 2015

K.N.Vijayakumar

... Petitioner

vs.

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Chennai - 2.
2. The Chief Engineer (Personnel)
8th Floor, NPKRR Maligai,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Chennai - 2.
3. The Superintendent Engineer,
Coimbatore Electricity Distribution Circle (North),
Coimbatore 641 012. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records of the 3rd respondent vide Ku.A.No.15332/NP1(4)/2015, dated 11.09.2015 and quash the same and consequently direct the 1st and 2nd respondents to promote the petitioner as Accounts Supervisor on par with his juniors.

For Petitioner: Mr.V.Vijay Shankar

For Respondents: Mr.P.R.Dhilip Kumar

O R D E R

The petitioner has come up with this Writ Petition challenging the proceedings of the 3rd respondent vide Ku.A.No.15332/NP1(4)/2015, dated 11.09.2015 and for a consequential direction to the 1st and 2nd respondents to promote him as Accounts Supervisor on par with his juniors.

2. According to the petitioner, he is a Football player having represented Tamil Nadu State in the Santhosh Trophy. He had initially studied upto 8th standard and he was appointed as an Officer Helper in the respondent Department on 29.12.1994

under the sports quota. In the year 1996, he was granted promotion as Record Clerk and while so, he obtained permission from the authorities for pursuing B.A. (History) course under the Open University Scheme offered by the Annamalai University. Since he had studied only upto 8th standard, he was asked by the Annamalai University to appear for an entrance examination for B.A. Degree course during December 1996 for admission during 1997. He came out successfully in the said entrance examination and pursuant thereto, he joined B.A. (History) course and successfully completed the same in December 1999. Based on the degree obtained by the petitioner after clearing the entrance examination, he was promoted as Junior Assistant in the year 2007. While working as Junior Assistant, the petitioner appeared for the Departmental Accounts examination conducted by the Tamil Nadu Public Service Commission and came out successfully.

3. It is the case of the petitioner that the next avenue of promotion from the post of Assistant is to the post of Accounts Supervisor. Since persons who have cleared the mandatory Accounts (Lower Grade) examination conducted by the Tamil Nadu Technical Education Centre are considered for promotion to the said post, the petitioner, who had cleared the said examination in the year 2013, was empanelled for promotion to the post of Accounts Supervisor, hoping to get promoted.

4. While so, on 17.03.2015, the 2nd respondent released the list of 199 persons, who were promoted as Accounts Supervisor. Unfortunately, the petitioner's name did not find place in the said list and on the other hand, his name was found in Annexure 'C', whereby, he stood deferred for promotion on the ground that he did not satisfy the minimum general educational qualification. Having put in 21 years of blemishless service, the aggrieved petitioner sent a representation to the 2nd respondent on 23.03.2015. However, by an impugned order dated 11.09.2015, the 3rd respondent communicated the decision of the 2nd respondent rejecting his request. Left with no other alternative, the petitioner is before this Court.

5. When the matter is taken up for hearing, learned counsel for the petitioner, producing a copy of the Pass Certificate of the petitioner issued by Annamalai University in Pre-Foundation Course along with the Mark Statement and Transfer Certificate, submitted that a direction may be given to the respondents to promote the petitioner as Accounts Supervisor on par with his juniors, by quashing the impugned order dated 11.09.2015.

6. In reply, learned counsel for the respondents, by filing a detailed counter, submitted that the petitioner is not eligible for the post of Accounts Supervisor as per the provision or Regulation 91(1) of the Service Regulation. He

further submitted that in view of the said Regulation, employees, who possesses minimum general educational qualification of 10th standard and also a pass in Accountancy Lower Grade, are alone eligible for promotion and in this case, the petitioner has passed only 8th standard and hence, he is not eligible for promotion to the post of 'Accounts Supervisor'.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. For better appreciation of the case, Regulation 91(1) of the Service Regulation is extracted hereunder:

"Minimum General Educational Qualification:

(1) The minimum general educational qualification wherever referred to in these Regulations, shall mean the qualification prescribed in the Schedule to these Regulations.

Note: An employee in regular service who does not possess the minimum general educational qualification, but who is certified by the competent authority to be deserving of appointment as full member or promotion or transfer from one post to another in the same class of service or from one class of service to another shall be deemed to possess the minimum general educational qualification, if he appears for the examination of the Secondary School Leaving Certificate Standard conducted by the Tamil Nadu Public Service Commission and obtains the minimum percentage of marks specified by the State Government in that Examination.

The qualification prescribed for appointment to the post of Junior Assistant and Assistant as per Annexure III referred to in Regulation 94, is as follows:

Assistants	Direct Recruitment	(a) xxxx (b) xxxx
Junior Assistant/ Typist and Steno Typist Stores Custodian	Direct recruitment or appointment by Internal selection	(a) xxxx (b) Must pass the minimum General Educational Qualification

9. Considering the submissions made by the learned counsel on either side and in view of the above Regulation, since the

minimum educational qualification prescribed for promotion to the post of Accounts Supervisor is a pass in X standard and that the petitioner has passed only 8th standard, this Court is not inclined to quash the impugned order.

10. However, since it is represented that the petitioner has completed pre-foundation Course in Annamalai University, this Court directs the petitioner to send a fresh representation to the 1st respondent along with a copy of the Pass Certificate issued by Annamalai University and on receipt of the same, the 1st respondent shall consider the petitioner's representation and pass appropriate orders pertaining to his promotion on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To:

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Chennai - 2.
2. The Chief Engineer (Personnel)
8th Floor, NPKRR Maligai,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Chennai - 2.
3. The Superintendent Engineer,
Coimbatore Electricity Distribution Circle (North),
Coimbatore 641 012.

+1 cc to Mr.V.Vijay Shankar, advocate, sr.59193

+1 cc to Mr.P.R.Dhilipkumar, advocate, sr.59295.

Trm(co)
krd 24/10

W.P.No.36956 of 2015