

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No. 41075 of 2016

N. Sankar

... Petitioner

vs.

1. The Chairman-cum-Managing Director,
Tamilnadu Electricity Board,
N.P.K.R.R. Maligai,
Old No.800, New No.144, Anna Salai,
Chennai - 600 002.

2. The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamilnadu Electricity Board,
Vellore - 6

... Respondents

Prayer :- Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamusto call for the entire records pertaining to the impugned order passed by the 2nd respondent herein vide his proceedings in Ka.No.0220481/485/Ni.P.3/Oo.2/Ko. Varisuveli dated 03.09.2015 and quash the same as illegal, arbitrary; unreasonable being violative of the rules and principles of natural justice.

For Petitioner : Mr.A.Rajendiran

For Respondents : Mr.Fakkin Mohideen

O R D E R

With the consent of both sides, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a certiorarified mandamus, to call for the entire records pertaining to the impugned order passed by the 2nd respondent vide proceedings in Ka.No.0220481/485/Ni.P.3/Oo.2/Ko. Varisuveli dated 03.09.2015

and to quash the same as illegal, arbitrary, unreasonable being violative of the rules and principles of natural justice.

3. It is the case of the petitioner that father of the petitioner was working as a Field Assistant in Tamil Nadu Electricity Board, Kathiyavadi, Arcot Taluk, Vellore District, under the respondents. While he was in service, he died in harness on 30.08.2012, leaving behind his wife, the petitioner, who is his elder son and another son Balaji, as his legal heirs. After the death of the petitioner's father, who was the sole earning member of the family, they have been living in indigent circumstances without any source of income.

4. The petitioner has studied up to VI Standard and belongs to backward community. Immediately after the death of his father, he made a detailed representation on 21.08.2015 requesting the second respondent to provide appointment to him on compassionate grounds with other connected certificates, such as, petitioner's father death certificate, legal heirs certificate, no objection letter of his brother, education certificate, etc. But, the 2nd respondent, vide his proceedings in Ka.No.0220481/485/Ni.P3/Oo.2/Ko. Varisuvelli dated 03.09.2015, has rejected the claim of the petitioner on the ground that the petitioner has not passed VIII standard. Hence, the petitioner has come forward with the above petition.

5. The learned counsel for the petitioner submitted that only for the post of Office Helper, qualification of VIII standard is necessary, as per the Tamil Nadu Electricity Board Service Regulations framed under the Electricity Supply Act, 1948. But, the same Regulations provide for pass in IV standard as the required qualification for certain posts.

6. The learned counsel for the petitioner further submits that the ability to read and write is not required for compassionate appointment for certain posts. In the identical situation, this Court, by elaborately dealing with the Tamil Nadu Electricity Service Regulations, has given a positive direction in W.P.No.23561 of 2009 in the case of A.Sakila Banu / vs/ The Chairman, Tamil Nadu Electricity Board, Anna Salai, Chennai and others, by order dated 20.09.2010. The learned counsel for the petitioner has also produced the copy of the order.

7. The learned counsel for the respondents vehemently opposed stating that as per sub clause (3) of Memo No.038525/587/G8/G82/ 2001-2 dated 24.05.2001 issued by the Chief Engineer (personnel), the applicant should possess the minimum educational qualification of a pass in eighth standard.

Thus, he sought for dismissal.

8. After hearing the submissions, I have carefully gone through the judgment in W.P.No.23561 of 2009 on 20.09.2010. From the judgment, it is seen that certain posts does not require even the ability to read and write. Therefore, if the petitioner is not eligible for the post, which requires VIII standard, he could be appointed for the other post, which requires ability to read and write.

9. Hence, the order passed by the 2nd respondent in Ka.No.0220481/485/Ni.P.3/Oo.2/Ko. Varisuveli dated 03.09.2015, is set aside and the second respondent is directed to consider the claim of the petitioner in the light of the judgment delivered by this Court in W.P.No.23561 of 2009 dated 20.09.2010 and pass appropriate order, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above direction, this writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

mrp
To

1. The Chairman-cum-Managing Director,
Tamilnadu Electricity Board,
N.P.K.R.R. Maligai,
Old No.800, New No.144, Anna Salai,
Chennai - 600 002. सत्यमेव जयते

2. The Superintending Engineer,
Vellore Electricity Distribution Circle,
Tamilnadu Electricity Board,
Vellore - 6. WEB COPY

+1 CC to Mr. M. Fabkir Mohideen, Advocate Sr.No.53991
+1 CC to Mr. A. Rajendiran, Advocate Sr.No.53672

W.P.No.41075 of 2015

CTK (CO)
MD : 19/10/2016