



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :19.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.10923 of 2014

Mohaideen Sahariah

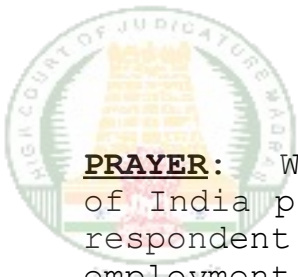
... Petitioner

Vs.

1. State Commissioner of Disabled
Government Peripheral Hospital Campus,
Jawaharlal Nehru Road,
K.K.Nager, Chennai 78.
2. The Chairman
Tamilnadu Generation and
Distribution Corporaion Ltd.,
Administrative Branch,
144, Annasalai,
Chennai 600 002.
3. The Chief Engineer/Personnel
Tamilnadu Generation and
Distribution Corporation Ltd.,
Administrative Branch,
144, Annasalai,
Chennai 600 002.
4. The District Collector,
Tirunelveli District,
Tirunelveli.
5. The District Employment Officer,
Tirunelveli District,
Tirunelveli.
6. The Commissioner,
Shenkottai Municipality,
Tirunelveli District.
7. The Secretary to Government
Welfare of Differently Abled persons Department
Fort.St., George, Secretariat, Chennai

(R7-impleaded as per order dated 21.07.2014
<https://hcservices.ecourts.gov.in/hcservices/>
in M.P(MD).No.1 of 2014.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent nos. 2 to 6 to consider the petitioner for suitable employment in forthcoming public employment according to his educational qualification without insisting age restrictions and consequently direct the first respondent to ensure the employment of the petitioner in terms of statutory provisions available under the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995, which mandates the appropriate Governments and the local authorities to formulate a scheme for ensuring employment of the persons with disabilities.

For Petitioner	: Mr.I.Mohammed Siraj
For Respondents	: Mr.V.Muruganandham
	Additional Government Pleader

ORDER

This writ petition has been filed, directing the respondent nos. 2 to 6 to consider the petitioner for suitable employment in the forthcoming public employment according to his educational qualification without insisting age restrictions and consequently direct the first respondent to ensure the employment of the petitioner in terms of statutory provisions available under the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995, which mandates the appropriate Governments and the local authorities to formulate a scheme for ensuring employment of the persons with disabilities.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The case of the petitioner is that the petitioner is a deaf and dumb by birth and he belongs to Most Backward Class (MBC-Muslim). Besides, the petitioner completed the S.S.L.C., (10th std) during the year 1989 and he completed Diploma course in Electrical during the year 1996. He registered his qualification with the District Employment Exchange, Tirunelveli on 26.02.1996 and eagerly waiting for the suitable job in public employment. He has registered his name on 19.05.1989 regarding his S.S.L.C., Recruitment for the post of Technical Assistant and Meter Reader Cum Assessor posts in Tamilnadu Generation and Distribution Corporation was recently over and several candidates, who are having similar registration have been sponsored by the fifth respondent in M.B.C. (Muslim) category under non-priority.

4. Since the petitioner submitted his requisition before the District Legal Services Authority, Tirunelveli against the fifth respondent seeking suitable employment, the fifth respondent has replied that the petitioner was not come within the prescribed age



limit for the recruitments of the second and third respondent, TNEB/TANGEDCO, but they informed that the petitioner name will be sponsored for public employment as and when the State Government relaxes the age limit insofar as the similar qualifications that the petitioner possesses now.

WEB COPY

5. The second respondent Corporation has recently completed their direct recruitment process for the posts of Meter Reader Cum Assessor, Technical Assistant and ITI Helper posts, but the fifth respondent did not sponsor the petitioner name to the second respondent. At present, the petitioner crossing 40 years, however, in view of the Government order vide G.O.(Ms) No.,704, Public (Services-A) Department dated 15.04.1964, wherein, the upper age limit for Physically handicapped persons in public employment has been relaxed upto ten years for all posts and the same is still in force.

6. In support of his contention, the learned counsel appearing for the petitioner further strongly relied on Section 38(1) of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and Section 38(1) of The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is extracted hereunder:-

"Schemes for ensuring employment of persons with disabilities:-

(1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for:

(a) the training and welfare of persons with disabilities,

(b) the relaxation of upper age limit

(c) regulating the employment

(d) health and safety measures and creation of a non-handicapping environment in place where persons with disabilities are employed:

(e) the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and

(f) constituting the authority responsible for the administrative of the scheme"

7. In such circumstances, the petitioner made a representation on 09.10.2013 and 20.01.2014 to the fourth respondent to provide an appointment, as there is a vacancy in the sixth respondent municipality in Technical Category. But the respondents have not considered his name. The second and third respondents are making appointment, without following the said mandate provisions, ultimately defeats the very purpose of the Act itself and several persons, those who have recently registered with employment exchange have been sponsored by the fifth respondent and thus they got appointment. The petitioner is waiting from the year 1996, but his name is not yet sponsored for any of recruitment.

8. Further the petitioner stating that there are several vacancies still vacant in the second respondent corporation and even



in the local bodies within the Tirunelveli District, in particularly in sixth respondent's Municipality, there are several vacancies available in Technical Categories. Hence, the petitioner prays to direct the respondents in terms of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which mandate the appropriate Governments and the local authorities to formulate a scheme for ensuring employment of the persons with disabilities.

9.The learned Additional Government Pleader in his counter affidavit stating that the petitioner registered his qualification in the office of the fifth respondent, viz., the District Employment Office, Tirunelveli and his Registration number is TND1996M0001160 registered with S.S.L.C., qualification. He further submitted that the fifth respondent has published the seniority list for the post of Assessor and Technical Assistant in Tamil Nadu Electricity Board, for which, the qualification, age limit and cut off date as per the notification for the post of Technical Assistant are as follows:

Age limit: As on 1.1.2013, 18 to 30 years for OC
No age limit for others.

Cut off date: Backward Class Muslim Non Priority - 12.3.1986
General Turn -Non- Priority - 29.06.1987
P.H.Ortho - 14.06.1988
P.H.Deaf -06.05.1994

10.As per certificate produced by the petitioner, he has completed 2 years Vocational Training Certificate Course in Electronics and not having the required qualification i.e diploma in Electronics and Communication Engineering. So that the petitioner name was not sponsored against the Technical Assistant Vacancy.

11.He further submitted that as per notification for the post of Assessor the requirements are as follows:

Qualification: S.S.L.C., Passed.

Age limit : As on 01.01.2013, 18 to 30 years for Open Competition, 18-32 years for Backward Class/Most Backward Class/Backward Class Muslim and 18-35 years for Schedule Caste/Schedule Caste Arunthathiar/Schedule Tribe

Cut off date: Backward Class Muslim Non Priority -
24.06.1996(09.06.81)

:Backward Class Muslim Priority-17.01.2002(ICM only)
P.H.Deaf - 19.05.1989.

12.The fifth respondent further submitted that no age relaxation given for Physically Challenged candidates in Non Priority vacancies. Hence, the petitioner was not eligible to sponsor against non priority category. The Cut off date for the General Turn-General-Deaf was 19.05.1989. The petitioner registered his S.S.L.C qualification beyond the cut off date (ie)09.11.1989.



There is no vacancy reserved for Backward Class Muslim-P.H.Deaf category. So the petitioner name was not sponsored against the General Turn General Deaf Category.

13.The candidates sponsored only on the basis of qualification, age limit and communal reservation adhering Government rules and regulations. It is submitted that the fifth respondent sponsored only the eligible candidates, who have registered their qualification within the cut off date and as per notification prescribed by the second respondent herein. He produced the communication sent by the District Employment Office, Tirunelveli to the Government Pleader, wherein, it has been stated that the candidate was not sponsored as per G.O.Ms.No.704, dated 15.04.1964, and, it is stated that " persons who are physically handicapped, namely, the Blind, the deaf, and the Orthopedically Handicapped may also apply if they fully satisfy all the prescribed qualifications except age, the case of each such application will be considered on merits and the question of relaxing the rule relating to age upto 10 years over the above age limits prescribed for the post concerned will be considered by the Government, if the applicant is found to be otherwise suitable and if the medical authorities are satisfied that the physical handicap is not such as would render him incapable of efficiently discharging the duties of the post for which he is selected"

14.In the light of the above G.O.Ms.No.704, dated 15.04.1964, this Court directs the respondents to consider the case of the petitioner, when the future vacancies arise, without insisting on the age limit and also the District Employment Office, Tirunelveli is directed to sponsor the petitioner's name in the forthcoming recruitment, if any, without fail.

15.With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.State Commissioner of Disabled
Government Peripheral Hospital Campus,
Jawaharlal Nehru Road,
K.K.Nager, Chennai 78.



2. The Chairman
Tamilnadu Generation and
Distribution Corporaion Ltd.,
Administrative Branch,
144, Annasalai,
Chennai 600 002.
 3. The Chief Engineer/Personnel
Tamilnadu Generation and
Distribution Corporation Ltd.,
Administrative Branch,
144, Annasalai,
Chennai 600 002.
 4. The District Collector,
Tirunelveli District,
Tirunelveli.
 5. The District Employment Officer,
Tirunelveli District,
Tirunelveli.
 6. The Commissioner,
Shenkottai Municipality,
Tirunelveli District.
 7. The Secretary to Government
Welfare of Differently Abled persons Department
Fort.St., George, Secretariat,
Chennai
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 93809
+ 1 CC TO Mr.I.MOHAMED SIRAJ, ADVOCATE IN SR No. 93786

MSA

TE/JC/SAR-2 : 14/03/2018 : 6P/10C

W.P (MD) No.10923 of 2014
19.12.2017