

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.8781 of 2017
and W.M.P.No.9625 of 2017

R.Priyadarsini ... Petitioner

versus

1. The Chairman,
TANGEDCO,
Nandanam,
Chennai.

2. The Chief Engineer / Personnel/
Recruitment,
TANGEDCO, Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of mandamus, directing the respondents to appoint the petitioner in the post of Assistant Engineer (EEE) on priority basis for the posts earmarked within the reserved category (Scheduled Caste) based on the Notification in Notification No.1 of 2015 dated 28.12.2015 on the file of the 2nd respondent.

For Petitioner : Mr.R.Singaravelan,
Senior Counsel,
for Mr.R.Jayaprakash

For Respondents : Mr.P.R.Dhilipkumar

ORDER

The prayer in the writ petition is to direct the respondents to appoint the petitioner in the post of Assistant Engineer (EEE) on priority basis for the posts earmarked within the reserved category (Scheduled Caste) based on the Notification in Notification No.1 of 2015 dated 28.12.2015 on the file of the 2nd respondent.

2. It is the case of the petitioner that she completed the Bachelor of Engineering in Electrical and Electronic Engineering in the year 2008 and also acquired M.E. (Applied Electronics)

from Anna University in the year 2010. She belongs to Schedule Caste. The 2nd respondent herein had issued a Notification No.1 of 2015 dated 28.12.2015 inviting application for filling up 273 posts of Assistant Engineers in the Electrical Stream, out of which, 48 seats were reserved for Schedule Caste candidates. Out of such 48 seats, 9 seats were reserved for Schedule Caste (Arundhathiyars) and the remaining 39 seats were reserved for the Schedule Caste general candidates. The petitioner applied for the said post and appeared for the written examination conducted by the respondents and obtained 28.333 marks and her total mark after interview is 29.283 marks. She was also called for interview by the second respondent vide a letter dated 02.03.2017 and she attended the interview on 15.03.2017. The cut-off mark for the candidates under the priority basis - women is 26.294.

3. It is her further case that she acquired a certificate from the Hon'ble President of India for outstanding scout. She also produced that certificate at the time of interview for consideration of her case under priority basis. While so, the respondents issued the selection list on 01.04.2017, wherein, her name was not found, while other 9 candidates, who secured marks lesser than her, were found in that list. In this regard, the petitioner gave a representation on 03.04.2017 in person to the second respondent. However, there was no response. Hence, the petitioner has come before this Court by way of filing the writ petition.

4. The learned senior counsel appearing for the petitioner submitted that the petitioner is an outstanding scout, for which, a certificate was issued by the President of India on 04.05.2016. Though the respondents fixed the cut-off marks for the candidates under the priority basis-women is 26.294, the petitioner had secured 29.283. However, she has not been considered. In the Government Letter No.25985/S/2010-3 dated 07.12.2010 issued by the Secretary to Government, Personnel and Administrative Reforms Department, Secretariat, Chennai, it has been stated that as per Rule 55 of General Rules for Tamil Nadu State and Subordinate Service, notwithstanding anything contained in Special Rules for various State and Subordinate Services, for appointment to any post by direct recruitment, when other things are equal preference shall be given to the outstanding scout, who has received the award of the President of India. As per the said letter, the petitioner should be given preference, as she is an outstanding scout having received the award of the President of India. The petitioner having secured 29.283 marks, without considering her candidature, other 9 candidates belonging to the Schedule Caste category were considered only on the ground that they fall under priority categories, namely intercaste marriage, Dependent of

Ex-Servicemen, persons, whose lands were acquired by the Governments.

5. The learned senior counsel appearing for the petitioner has drawn the attention of this Court to Rule 55 of the Tamil Nadu State and Subordinate Service Rules Part I and II and contended that the Rule envisages that preference shall be given to outstanding scout for the appointment of any post by direct recruitment. Therefore, when Rule 55 gives a concession for scout, the respondents ought to have considered the same. Therefore, a direction be issued to the respondents to consider the candidature of the petitioner to the post of Assistant Engineer (EEE) under priority category for outstanding scout.

6. The learned senior counsel concluded his argument by submitting that when the respondents have included the candidates, who have come under the category of intercaste marriage, physically challenged candidate etc, the petitioner, who has secured above the cut-off marks and also received the award of outstanding scout from the Hon'ble President of India, no prejudice would be caused by selecting and appointing the petitioner.

7. Opposing the above prayer, counter affidavit has been filed by the respondent.

8. The learned counsel appearing for the respondents, opposing the above contentions, submitted that the petitioner, having secured 28.333 marks, has not come within the zone of consideration for the reason that the second respondent has given cut-off marks for SC (General) as 37.373 and SC (Woman) as 34.142. Moreover, the last candidate appointed under the SC General category scored 37.373 marks and the last candidate appointed under the SC (Woman) category scored 34.142 marks and those candidates have come within the zone of consideration, therefore, they were selected for the said post. Whereas, admittedly, the petitioner has secured 29.283 marks, which is much below the candidates scored under SC (General) and (Woman) category, hence, she was not selected. As she is not entitled for any relief, the prayer in the writ petition should be refused.

9. Yet another argument was taken by the learned counsel appearing for the respondents that the letter No.25985/S/2010 dated 07.12.2010, issued by the Secretary to the Government, Personnel Administrative Department, Secretariat, directing to give equal preference to the outstanding scouts means only if the petitioner comes under the zone of consideration and if more than one or two candidates secured the same equal marks, the petitioner, should be given preference among other categories

for having secured the same mark. But, the letter dated 07.12.2010 clearly says only preference to the outstanding scout, who has received the award from the President of India and not on priority. Therefore, the meaning given to the word 'priority' is something different from the 'preference' now sought for by the petitioner. In the present case, no other candidate securing the same marks secured by the petitioner was selected overlooking the petitioner. Therefore, the case of petitioner that she should be brought under the priority category should not be accepted.

10. This Court is unable to accept the arguments advanced by the learned counsel appearing for the respondent. The reason being when the Notification in question was issued, the petitioner along with other candidates participated in the selection process. The details of marks of the other candidates, falling under the schedule caste category, intercaste marriage, etc., in the selection list of 273 Assistant Engineer/Electrical Engineer (EEE) by Direct Recruitment for the year 2015-2017 read as under:

1. Ponnidevi J., belonging to Schedule Caste shown at Serial No.13 secured 29.252 marks
2. Durai V. belonging to Schedule Caste shown at Serial No.79 secured 27.049 marks
3. Nithya G.M. belonging to Schedule Caste shown at Serial No.113 secured 26.294 marks
4. Kannathasan R. belonging to Schedule Caste shown at Serial No.143 secured 26.135 marks
5. Bharath R. belonging to Schedule Caste shown at Serial No.179 secured 25.660 marks
6. Shamala A. belonging to GT shown at Serial No.186 secured 26.187 marks
7. Nijanthan M. belonging to Schedule Caste shown at Serial No.213 secured 25.493 marks

11. When the respondents have selected the aforesaid persons under various priority categories, i.e. Intercaste marriage, ex-service man and the persons whose lands were acquired by the Government, this Court is of the considered opinion that the petitioner, being the recipient of outstanding scout by the President of India is also entitled to get the benefit of priority. This could be seen from Government Letter No.25985/S/2010-3 dated 07.12.2010 issued by the Secretary to Government, Personnel and Administrative Reforms Department, Secretariat, Chennai, 12. No doubt, a reading of the letter dated 07.12.2010 clearly indicates that as per Rule 55 of the Tamil Nadu State and Subordinate Services notwithstanding anything contained in Special rules for various State and Subordinate Services, for appointment to any post by direct recruitment, when other things are equal, preference shall be given to the

outstanding scout, who has received the award of the President of India. As selection of candidates, who secured less marks compared than the petitioner were made and appointment orders were issued bringing them under priority category, this Court, being satisfied with the marks secured by the petitioner, directs the respondents to bring her under the priority category of recipient of outstanding scout by the President of India as one of the priority categories and consider her for selection to the post, for which she applied, as per the Notification. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

13. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,
TANGEDCO,
Nandanam,
Chennai.

2. The Chief Engineer / Personnel/
Recruitment,
TANGEDCO,
Chennai.

+1cc to Mr.R.Jaya Prakash, Advocate SR.No.16420

+1cc to Mr.P.R.Dilip Kumar, Advocate SR.No.16153

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GN(02/04/2018)