



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE C. SARAVANAN

W.P. (MD) No. 17720 of 2014
and
M.P. (MD) Nos. 1 and 2 of 2014

S. Somaselvakumar ... Petitioner

-Vs-

1. The Chairman & Managing Director,
Tamil Nadu Generation & Electricity
Distribution Corporation Company Limited,
144, Anna Salai, Chennai-2.
2. The Chief Engineer (Personal),
Tamil Nadu Generation & Electricity
Distribution Corporation Company Limited,
144, Anna Salai, Chennai-2.
3. The Chief Engineer Distribution,
Madurai Region,
Tamil Nadu Generation & Electricity
Distribution Corporation Company Limited,
K. Pudur, Madurai-7.

4. S. Rajkumar

5. G. Sarveshwaran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari Mandamus, calling for the records relating to the impugned selection list of 182 Assistant Engineer / Electrical (EEE) by direct recruitment 2013-2014 published by the respondents through their official website on 25.02.2014 and to quash the selection of the 5th respondent and the placement of the fourth respondent in rank and seniority in petitioner place and consequently, directing the respondents to consider the petitioner for selection to the post of Assistant Engineer / Electrical (EEE).

For Petitioner

: Mr. R. Thangasamy

For R1 to R3

: Mr. G. Kasinatha Durai,
Standing Counsel.

ORDER

The petitioner applied for the post of Assistant Electrical Engineer with the respondents 1 to 3, pursuant to the applications



called for on 26.05.2013. Out of 100 marks, 85% marks to be worked out from the marks obtained in UG degree and balance 15% marks to be worked out from viva voce. The petitioner secured 74.28 marks out of 100 marks, based on the calculations of the said notification. However, he was not selected. Therefore, he approached the respondents under Right to Information Act and stated that the respondents 4 and 5 secured lesser marks than him and they were selected. In the typed set of papers, the petitioner has filed complete set of enclosures and particulars requested by the Senior Personnel Officer / Inspection and Public Information Officer of the respondent. The respondents 4 and 5 are at Sl.Nos.1932 and 1934 and have secured 74.03 and 74.24 marks respectively. It is noticed that both the respondents 4 and 5 have secured 14 out of 15 in viva voce and therefore, it appears that they have been selected overlooking the petitioner. The petitioner therefore, filed this Writ Petition.

2. When the matter came up for admission, the petitioner obtained an interim order dated 05.11.2014 to keep one post of Assistant Electrical Engineer as vacant, pending disposal of the writ petition.

3. It was submitted that the petitioner was more qualified than the respondents 4 and 5 as the 4th respondent secured 74.03 marks and the 5th respondent secured 74.24 marks. In the counter affidavit, it is stated that the petitioner has obtained only 69.28%, whereas the respondents 4 and 5 have secured 74.24% and 74.03% respectively and therefore, the respondents were justified in overlooking the petitioner while appointing the respondents 4 and 5.

4. However, it is noticed that the petitioner had obtained the documents from the Senior Personnel Officer / Inspection and Information Officer, under the Right to Information Act, wherein by letter dated 15.04.2014, it is stated that the petitioner had obtained 8 marks out of 15 marks for the interview.

5. By another letter communication dated 07.05.2013 in response to the letter dated 24.04.2014, the marks of the petitioner and the respondents have been given. Though the letter dated 07.05.2013, is in the year 2014, it is dated 07.05.2014 in response to the letter dated 24.04.2014.

6. Be that as it may, the said letter has enclosed the entire selection list of Assistant Engineer / Electrical (EEE) by direct recruitment. The marks procured by the petitioner has been mentioned in Serial No.1680 as 74.28 % and the marks procured by the respondents 4 and 5 are 74.03 % and 74.24 % vide in Serial Nos.1932 and 1934 respectively. It is evident that the petitioner had secured more marks than the respondents 4 and 5. The defence in the counter that the petitioner secured only 69.28 % is acceptable.

7. In view of the same, the learned counsel appearing for the petitioner submits that the vacancy kept vacant in view of the

pendency of the writ petition may be directed to be filled.

8.I have considered the documents and counter affidavit filed by the respondents 1 to 3.

9.I am of the view that this Writ Petition deserves to be allowed, since the petitioner had secured more marks and obtained an interim order from this Court on 05.11.2014 to keep one post vacant. The respondents are therefore, directed to fix the pay notionally and absorb the petitioner, within a period of six weeks from the date of receipt of a copy of this order, extending all benefits to the petitioner from the date, he would have been appointed, if the respondents had not rejected his candidature to the post of Assistant Engineer / Electrical (EEE).

10.Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

+5cc to M/S.R.Thangasamy Advocate in SR.No.100241
+1cc to M/S.G.Kasinatha Durai,Advocate in SR.No.100373

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