

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2019

CORAM

THE HON'BLE Mr. JUSTICE M.GOVINDARAJ

W.P.No.16850 of 2012
and
W.M.P.No.1 of 2012

R.Pazhani Murugan

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by its Secretary,
Energy Department,
Secretariat, Chennai - 9.

2.The Chief Electrical Inspector,
Government of Tamilnadu,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 002.

3.The Secretary,
TamilNadu Public Service,
Omandrar Government Estate,
Anna Salai, Chennai - 600 002.

4.B.Ganesan

5.R.Karuppusamy

6.G.Satheeshkumar

7.B.Palanisamy

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of writ of mandamus, directing the respondents 1 to 3 to cancel the appointment of the 4th respondent and to consequently appoint the petitioner in the

said vacancy as had been done in the case of 5th and 6th respondents forthwith and to extend all benefits both service and monetary.

For Petitioner : Mr.Chandra Kumar

For Respondents: Mr.R.Janaki

Additional Government Pleader [for RR1&2]

Mr.C.N.G.Niraimathi [for R3]

Mr.Paul & Paul [for RR4 to 6]

Mr.Godson Swaminathan for

Isaac Chambers [for R7]

O R D E R

The petitioner has filed the above writ petition seeking a direction to the respondents 1 to 3 to cancel the appointment of the 4th respondent and to consequently appoint the petitioner in the said vacancy as has been done in the case of respondents 5 and 6 forthwith and to extend all benefits, both service and monetary.

2. According to the petitioner, a notification was issued by official respondents for appointment of Assistant Electrical Inspectors under the Tamil Nadu Electrical Inspectorate Services. The petitioner belongs to MBC category and he possesses qualification and experience for appointment to the said post. As per the notification, the aspirant to the above post shall have work experience certificate for a period of three years. Since the petitioner possesses practical experience certificate from July 1998 - June 2003, he is fully eligible to be appointed, whereas the 4th respondent is an ineligible candidate. Hence, petitioner filed a writ petition in W.P.No.24106 of 2009 for a direction directing the respondent to permit the petitioner to attend the interview.

3. Pursuant to the directions, the petitioner was called for interview but was rejected for lack of experience. This Court, after perusing the original file of the Tamil Nadu Public Service Commission, has found that the 4th respondent was not within the list of 12 eligible candidates. Hence, action was taken against the officials, who committed error and the name of the 4th respondent was deleted and the appointment was also cancelled on 12.12.2013.

4. According to the learned counsel for the petitioner, the post was earmarked for MBC category and in the event of

cancellation, the petitioner is entitled to be appointed to that post. According to petitioner, respondents 5 and 6 are also not possessing experience certificate and therefore, their appointment should also be cancelled. In effect, the petitioner wants placement in the MBC category in the place of 4th respondent.

5. The contesting respondents 5 to 7 have filed individual counters.

6. According to the 4th respondent, he has challenged the cancellation order by way of a writ petition in W.P.No.35227 of 2013 and the same is pending before this Court. Since he was not a party to the writ petition filed by the petitioner in W.P.No.24106 of 2019, the adverse remarks made therein would not be binding.

7. So far as the respondents 5 to 7 are concerned, they would contend that they have individual practical experience for more than four years and therefore, their appointment should not be cancelled. The official respondents also filed a counter stating that the respondents 5 to 7 are possessing necessary qualification and therefore, their appointment cannot be cancelled.

8. I heard the submissions of all the parties and also perused the relevant documents.

9. A perusal of the order passed in W.P.No.24106 of 2009 dated 13.02.2012 clearly declares that the petitioner does not have requisite experience in the eyes of the 2nd respondent. The relevant paragraph is extracted hereunder:-

"Therefore, vide his proceedings dated 22.09.2008 in Lr. No.025142/CEIG/2008, has compared all the applications and given 11 names of candidates. In the said 11 names, the petitioner's name does not find a place. Thereafter, on 30.09.2008, in continuation of the earlier letter one more name has been recommended, who has worked with Southern Railway. Out of these 12 names, procedural selection has now been made and 7 has been concluded. Of the 7, as stated earlier one name has been included wrongly, for which action is being taken. As far as R.Karuppasamy and S.Ganesan are concerned, S.

Ganesan has not been selected. The final selection list of candidates have been produced before this court leads with only R. Karuppasamy. Learned counsel for the petitioner would contend that he has no specific clarification. As per the letter dated 22.09.2008, the respondents have considered the experience and have categorically stated that as he had worked in a State Government Spinning Mills at Erode, his experience is equivalent to that of the prescribed qualification. So, that objection also could not be accepted. In so far as the petitioner's qualification is concerned, both the Tamil Nadu Public Service Commission as well as the Government has categorically stated, so far as practical experience is concerned he does not have the three years practical experience for the simple reason the work experience in Naga Hi-Tech Heavy Engineering Pvt. Ltd., is not considered as an experience of similar nature as aforesaid. The petitioner has worked in the External Coal handling system at North Chennai Thermal Power Station, Chennai through outsourcing by the firm M/s.Radha Engineering Works, Chennai for a period of two years only as against the requisite experience of three years. Whereas the earlier experience of about five years at M/s. Nagaa Hi-Tec Heavy Engineering Pvt. Ltd., was not considered as an experience of similar nature, as the above company is a very small one, as far as the electricity is concerned, it does not even have a high voltage consumer. Therefore, the Chief Electrical Inspector has rejected his experience on the ground that the petitioner has only two years of requisite experience and not three years. In any way, this experience has to be decided by the expert authority. The expert authority, the Chief Electrical Inspector has analysed the entire details and come to a conclusion that the petitioner will not come under the category of eligible candidates eventhough he has passed in the written examination, since he does not possess the requisite practical experience. Therefore, this Court does not find any discrepancy on the practical experience as decided by the respondents. In so far as the complaint of the petitioner that ineligible persons have been posted, who is not in the selection list, for which necessary action is being taken by the Government and the Tamil Nadu Public Service Commission. Therefore, I do not find any reason to interfere with the appointment of

the other six persons are concerned. The prayer in the writ petition is only for a Mandamus , permitting him to attend the interview, even at the admission stage level. But, his experience has to be fixed by the Tamil Nadu Public Service Commission, which is rightly held for selection. Therefore, the writ petition now is not sustainable."

10. A reading of this order shows that the 2nd respondent has rejected the application of the petitioner for want of requisite experience of three years. The practical experience gained by the petitioner from a private firm could not be considered, since it is a small firm and was not a high voltage consumer. Thus, the petitioner had only two years experience falling short by one year as against three years of requisite experience. When the petitioner is found not suitable to the post, he cannot claim that he should be selected and appointed in the place of 4th respondent. The petitioner has a right to be considered for appointment, but not a right to get appointed. He was considered as per the directions of this Court, but found lacking in requisite experience in the filed. As held by this Court, it is for the expert body, which considers the eligibility conditions to take a decision. Such decisions cannot be interfered, unless it is arbitrary and illegal. Such decision was challenged and it was rejected holding there is no locus standi for the petitioner he cannot maintain successive writ petitions. But the petitioner once again seeks direction to appoint him in the above writ petition. Such prayer is not maintainable and there are no fresh grounds or compelling reasons to modify the same. To sum up the petitioner lacked requisite experience and his rejection has been upheld by this Court. But, the 5th respondent possesses experience of 10 years in a Co-operative Spinning Mills Ltd., and the 6th respondent has 4 years experience in Southern Railway, which are all recognized as suitable experience. Likewise, the 7th respondent has also got more than four years of service as stated in the counter.

11. In view of the above, the contention of the petitioner that the respondents 5 to 7 are not qualified candidates, is unsustainable. It is only for the official respondents to consider the requisite experience and select the candidate for appointment. In view of the clear finding rendered by this Court in W.P.No.24106 of 2009 dated 13.02.2012, the petitioner has no locus standi to challenge the appointment given by the official respondents.

For the aforesaid reasons, the writ petition has no merits for consideration and accordingly, the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,
State of Tamil Nadu
Energy Department,
Secretariat, Chennai - 9.
- 2.The Chief Electrical Inspector,
Government of Tamilnadu,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai - 600 002.
- 3.The Secretary,
TamilNadu Public Service,
Omandrar Government Estate,
Anna Salai, Chennai - 600 002.

+1cc to Mr.Chandra Kumar, Advocate sr.105495
+1cc to Government Pleader SR.NO. 105309
+1cc to M/s. Paul & Paul, Advocate sr.105073
+1cc to M/s.Isaac Chambers, Advocate sr.104662

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