

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2019

Coram

The Honourable Mr. Justice D. KRISHNAKUMAR

W.P.No.18280 of 2010

S.Kathavarayan

...Petitioner

Versus

1.The Tamil Nadu Electricity Board,
Rep. By its Chairman,
144, Anna Salai, Chennai - 600 002.

2.The Assistant Director of Employment
and Training,
District Employment Office,
Gandhi Nagar,
Thiruvannamalai - 606 602.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned orders passed by the first respondent in his communication Letter No.120280/889/G.57/G.571/2010-1 dated 01.07.2010 and quash the same and consequently, direct the respondents to consider the name of the petitioner for selection and appointment as Technical Assistant in the service of the Tamil Nadu Electricity Board in the existing vacancies.

For Petitioner : Mr.K.Premkumar

For Respondent - 1 : Mr.P.R.Dhilip Kumar,
Tamil Nadu Electricity Board

Respondent - 2: Mr.A.Ansar,
Government Advocate

O R D E R

With consent of both sides, this Writ Petition is taken up for final disposal.

2. The relief sought for in this Writ Petition is to call for the entire records relating to the impugned orders passed by the first respondent in his communication Letter No.120280/889/G.57/G.571/2010-1 dated 01.07.2010 and quash the same and consequently, direct the respondents to consider the name of the petitioner for selection and appointment as Technical Assistant in the service of the Tamil Nadu Electricity Board in the existing vacancies.

3. The case of the petitioner is that he passed the Diploma in Electronics and Communication Engineering in the year 1991 and registered his above qualification with the second respondent Authority with Registration No.11448/91 dated 17.12.1991. The said Registration is duly renewed by the petitioner and therefore, the same is in force on date. The petitioner belongs to the Most Backward Community (Vanniya Kula Kshathiriyar) and his date of birth is 15.04.1969.

3.1 While so, the first respondent Board called for an interview for the post of Technical Assistant to be held on 16.09.1994, before the Chief Engineer/Distribution Vellore, at 9:00 a.m by their Communication Memorandum No.06450 dated 25.08.1994 from the list of candidates sponsored by the second respondent and the petitioner attended the same. However, the first respondent Board cancelled the selection process in respect of the said interview since this Court granted an order of stay in a Writ Petition filed by some of the temporary employees who were already working in the first respondent Board.

3.2. During the period between September 1994 till July 2009, no interview and selection were conducted for appointment of the candidates for the post of Technical Assistant in the Tamil Nadu Electricity Board. However, in the month of August 2009, the first respondent Board started filling up of the aforesaid post by appointing the candidates from the second respondent Employment Exchange, without considering the aforesaid interview. Thereafter, the aggrieved petitioner approached the second respondent authority but he was informed that he was not sponsored by the second respondent authority since he had crossed 37 years of age. Hence, the petitioner made a representation dated 25.09.2009, before the first respondent Board but the same was not considered. Then, the petitioner filed a Writ Petition in W.P.No.21974 of 2009 before this Court, seeking to direct the first respondent to consider his representation. By order dated 28.10.2009, this Court disposed of the said Writ Petition by holding as follows:

"6. In view of the submission made by the learned counsel for the petitioner, without going into the merits of the case, the first respondent is directed to consider the representation of the petitioner dated 25.09.2009 and pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that no opinion is expressed on the merits of the case and the petitioner cannot claim any benefits by taking advantage of this order.

This Writ Petition is disposed of accordingly. No costs."

3.3 Based on the aforesaid order of this Court, the respondent Board had passed an order vide Letter No.120280/889/G.57/G.571/2010-1, dated 01.07.2010, stating that the petitioner crossed 37 years of age at the time of selection for the post of Technical Assistant in TNEB as per G.O.Ms.No.98, P&AR(S) Department, dated 17.07.2006, the MBC Community age limit is 37 years and the petitioner completed 38 years at the time of interview for the post of Technical Assistant and therefore, the Employment Exchange has not been sponsored the name of the petitioner for the post of Technical Assistant/Electrical. Challenging the aforesaid order passed by the first respondent Board, the writ petitioner has filed the present Writ Petition for the relief stated supra.

4. The learned counsel for the petitioner submitted that the first respondent Board passed the impugned order dated 17.07.2006, without considering the petitioner's representation dated 25.09.2009. He further submitted that the petitioner is fully qualified for the post of Technical Assistant and also he attended the interview conducted by the first respondent Board for the said post. He therefore prayed that the present writ petition may be allowed.

5. The learned counsel appearing for the first respondent Board would contend that the petitioner crossed the age of 38 years at the time of interview which was held on 16.09.1994 and that he was not eligible for the post of Technical Assistant/Electrical in the first respondent Board. He would further contend that the petitioner's counsel has not disputed the fact that the petitioner crossed the age of 37 years at the time of selection for the post of Technical Assistant/Electrical. He would also contend that there is no merit in the present writ petition and therefore, the same is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent.

7. From a perusal of the impugned order dated 01.07.2010, passed by the first respondent Board, it is seen that the second respondent Employment Exchange has not sponsored the name of the petitioner for the post of Technical Assistant/Electrical since he completed the age of 38 years at the time of interview held on 16.09.1994. It is also seen that as per the G.O.Ms.No.98, P&AR(S) Department dated 17.07.2006, the age limit for the candidates belonging to MBC Community is 37 years, but the petitioner already crossed the age of 37 years at the time of selection and completed the age of 38 years at the time of interview.

8. Considering the facts and circumstances of the case, this Court is of the view that the first respondent Board had rightly rejected the representation dated 25.09.2009, made by the petitioner and there is no necessity to interfere with the order passed by the first respondent Board vide communication Letter No.120280/889/G.57/G.571/2010-1 dated 01.07.2010. Hence, this Writ Petition is liable to be dismissed.

9. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Chairman,
The Tamil Nadu Electricity Board,
144, Anna Salai, Chennai - 600 002.

2.The Assistant Director of Employment
and Training,
District Employment Office,
Gandhi Nagar,
Thiruvannamalai - 606 602.

+lcc to Mr.P.R.Dhilipkumar, Advocate Sr.86316
+lcc to the Government pleader Sr.86875

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srg 21/11/2019