

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-01-2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.34698 OF 2019

A.Velmurugan

...Petitioner

-vs-

1. Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
No.144, Anna Salai,
Chennai-600 002.
2. Superintending Engineer,
Purchase and Administration,
Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tuticorin Thermal Power Station,
Tuticorin - 628 004.

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent in proceeding Memo No.014289/238/Addo/Admn-2/A/F.Intnl.Sel/2019, dated 17.07.2019, and quash the same and consequently direct the first respondent to appoint the petitioner as Technical Assistant by internal selection as per the proceedings of the first respondent, dated 30.09.2015.

For Petitioner : Mr.V.Stalin
For Respondents: Mr.Karthick Rajan,
Senior Standing Counsel.

ORDER

This Writ Petition has been filed challenging the proceedings of the second respondent, dated 17.07.2019, and for a consequential direction to the first respondent to appoint the petitioner as a Technical Assistant, as per the proceedings, dated 30.09.2015.

2. The case of the petitioner is that he joined the respondent Corporation as a Field Assistant in the year 2014 by direct recruitment. He, thereafter, underwent Diploma Engineering (Electrical) during the period 2011-2013 in Manav Bharti University at Himachal Pradesh and completed the Course. The respondent Corporation called for applications by its proceedings, dated 30.09.2015, from in-service candidates, who are working in regular work establishment and Provincial Cadres, who are drawing the regular time scale of pay, to fill up the post of Technical Assistant/Electrical, by internal selection. The petitioner also applied for the post. He submitted his application along with the Diploma Certificate. The respondent Corporation wanted to verify the authenticity of the Diploma Certificate and, therefore, a communication was sent to the University concerned. According to the petitioner, the University also clarified by its letter, dated 17.12.2015, to the effect that the petitioner had undergone the course and that the certificate produced was a genuine one.

3. The petitioner was not informed regarding the selection and, therefore, he made a representation to the respondent. Since the same was not considered, he filed W.P.No.34329 of 2017 before this Court and this Court, by an order, dated 05.01.2018, directed the first respondent to consider the representation of the petitioner and pass orders. Pursuant to the orders passed by this Court, the second respondent has rejected the request made by the petitioner, on the ground that the Corporation was not able to get any information from the University, since the University had informed that all the important documents were destroyed due to fire in the Record Room. Aggrieved by the same, the present Writ Petition has been filed before this Court.

4. Mr.V.Stalin, learned counsel appearing on behalf of the petitioner, submitted that even at the time when the candidature of the petitioner was considered along with others, the Corporation had received a letter from Manav Bharti University to the effect that the Certificate issued to the petitioner was genuine. The learned counsel also submitted that the respondents ought to have proceeded further with the selection of the petitioner with the available records and the petitioner has been unnecessarily made to run from pillar to post and there was absolutely no requirement to seek for one more authentication from the said University. The learned counsel finally submitted that the petitioner satisfies all the requirements to be considered for appointment to the post of Technical Assistant and that there are existing vacancies, in which the petitioner can also be fitted.

5. Mr.Karthick Rajan, learned Senior Standing Counsel for the respondents-TANGEDCO, submitted that during the year 2015, the respondents initiated action to fill up 500 posts of Technical Assistants/Electrical by internal selection. According to him, the respondents received nearly 660 applications and, after scrutiny, 483 persons were selected. The learned Senior Standing Counsel further submitted that the petitioner claimed that he completed Diploma Course in Manav Bharti University at Himachal Pradesh and, therefore, the respondents wanted to check the authenticity of the Certificate produced by the petitioner. The learned Standing Counsel also submitted that a response was received from the University to the effect that all the original records were destroyed due to a fire accident that happened in the Record Room. The learned Standing Counsel, therefore, submitted that the authenticity/genuineness of the Certificate produced by the petitioner is still questionable. In the alternative, the learned Standing Counsel submitted that even if the petitioner is held to be possessing all the qualifications and the earlier letter sent by Manav Bharti University, dated 17.12.2015, is taken into consideration, the petitioner has to wait for the next notification and participate in the selection. The learned Standing Counsel concluded his arguments by submitting that the petitioner has delayed at every stage and he does not have any right to be considered for selection, which pertains to the year 2015.

6. This Court has carefully considered the submissions made on either side and also the materials available on record.

7. It is an admitted case that the petitioner possessed all the requisite qualifications to be considered for appointment to the post of Technical Assistant. The petitioner had submitted all the relevant records along with his application and he was waiting for the results. It is seen from the records that the respondents, by a letter, dated 27.11.2015, addressed to Manav Bharti University had already sought for a confirmation regarding the Course underwent by the petitioner and the genuineness of the Certificate produced by the petitioner. In response thereto, the Registrar of Manav Bharti University, by his letter, dated 17.12.2015, addressed to the Superintending Engineer of TANGEDCO, has specifically informed that the petitioner has registered himself for the Course and the Certificate produced by him is genuine as per the University records. It is not known as to why the respondents did not act upon the said letter, issued by Manav Bharti University. For some reasons, the application submitted by the petitioner was not processed and the petitioner was also not informed about the progress in the selection.

8. The petitioner, left with no other alternative, started making applications under the Right To Information Act, seeking for particulars regarding the selection. The petitioner also made a representation and approached this Court in the year 2017, by filing W.P.No.34329 of 2017, and prayed before this Court to direct the respondents to appoint him as a Technical Assistant. This Court, by an order, dated 05.01.2018, directed the respondents to consider the representation made by the petitioner on 07.12.2017 and pass orders within a period of four weeks. It was, pursuant to the said order, the second respondent has passed the order impugned, dated 17.07.2019, rejecting the request made by the petitioner, on the ground that the Corporation was not able to get any authenticity regarding the Certificate produced by the petitioner from Manav Bharti University.

9. In the considered view of this Court, there was no requirement for the respondents to have approached Manav Bharti University again, seeking for clarification. As already stated above, the said University has informed the respondents, by a letter, dated 17.12.2015, that the petitioner underwent the Course and the Certificate produced by him is genuine. That being so, the respondents ought to have proceeded further with the selection of the petitioner to the post of Technical Assistant, if the petitioner had otherwise fulfilled all the qualifications.

10. An attempt is being made to put the entire blame on the petitioner for the delay. The petitioner cannot be blamed for the delay, since he had fulfilled all the requirements in the year 2015 itself and it is the respondents, who, for some strange reasons, failed to act on the letter sent by Manav Bharti University, dated 17.12.2015, and were keeping the application of the petitioner pending. Having received the clarification, there was no requirement for the respondents to again approach the University and ask for one more letter. This meaningless exercise undertaken by the respondents has only caused the delay in the present case and the delay can never be attributed to the petitioner.

11. In view of the above discussion, this Court has no hesitation to interfere with the impugned order, dated 17.07.2019, passed by the second respondent and, accordingly, the same is quashed.

12. It is brought to the notice of the Court that only 483 posts were filled up out of 500 posts and the rest of the posts is going to be carried forward to the next selection. This position makes it clear that there are some vacancies, which were available even in the 2015 selection. Therefore, the

petitioner was entitled to be considered for selection in one of the vacant posts, since he was found to be fulfilling all the requirements under the notification, issued in the year 2015.

13. As a consequence of the above findings, there shall be a direction to the first respondent to process the application submitted by the petitioner, on the basis of the letter sent by Manav Bharti University to the second respondent, dated 17.12.2015, and pass necessary orders of appointment within a period of four weeks, if the petitioner is found qualified otherwise.

14. Writ Petition is allowed with the above direction. No costs. Consequently, the connected W.M.P.No.35453 of 2019 stands closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

dixit
To

1. Chief Engineer (Personnel),
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2. Superintending Engineer,
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Tamil Nadu Generation and Distribution
Corporation Limited (TANGEDCO),
Tuticorin Thermal Power Station,
Tuticorin - 628 004.

+1 CC to Mr.V.Stalin, Advocate sr 2897.

+1 CC to Mr. Karthik Rajan, Advocate sr 2526

W.P.No.34698 OF 2019

VBA(CO)
SP(13/02/2020)