



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.14990 of 2010

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1.R.Appasamy  
2.K.Ambikapathi  
3.A.Selvaraj  
4.C.Panneer Chelvam

... Petitioners

Vs.

1.The Secretary,  
Distance Education Council (DEC),  
Indira Gandhi National Open University,  
Maiden Garthi, New Delhi.

2.The Registrar,  
Vinayaga Missions Deemed University,  
Salem.

3.The Tamil Nadu Electricity Board,  
Rep. by the Chief Engineer/Personal,  
Tamil Nadu Electricity Board,  
VIII Floor, NPKRR Maaligai,  
800, Anna Salai, Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned notification dated 01.07.2009 having reference No.057700/512/G.55/G.551/2009-1 issued by the 3rd respondent and quash the same in so far as the said notification disqualifies the candidates who acquired their B.E. (Electrical) degree through the Distance Mode of education for being appointed as Assistant Engineer (Electrical) and consequently direct the 3rd respondent to appoint the petitioners to the post of Assistant Engineer Degree (Electrical) obtained through distance mode as eligible for getting appointed as Assistant Engineer (Electrical) as per Article 94 Annexure-III of Tamil Nadu Electricity Board Service Regulations.

For Petitioners : Mrs.Nalini Chidambaram  
Senior Counsel  
for M/s.C.Uma

For Respondent 1 : Mr.S.Saravanan

For Respondent 2 : Notice served on 16.08.2010

For Respondent 3 : Mr.P.Subramaniam  
Standing Counsel for TNEB



## ORDER

This writ petition has been filed challenging the notification dated 01.07.2009 having reference No.057700/512/G.55/G.551/2009-1 issued by the 3rd respondent and quash the same insofar as the said notification disqualifies the candidates who acquired B.E. (Electrical) degree through the Distance Mode of education for being appointed as Assistant Engineer (Electrical) and consequently direct the 3rd Respondent to appoint the petitioners to the post of Assistant Engineer (Electrical) in Tamil Nadu Electricity Board by considering the B.E. Degree (Electrical) in Tamil Nadu Electricity Board by considering the B.E. Degree obtained through distance mode as eligible for getting appointed as Assistant Engineer (Electrical) as per Article 94 Annexure-III of Tamil Nadu Electricity Board Service Regulations.

2. Briefly, the relevant facts are set-out herein:

i) The petitioners had completed ITI (2-year certificate course) in various Government Institutions, subsequently, through Employment Exchange they were appointed as Helper in the TNEB - 3rd respondent herein.

ii) The petitioners sought permission of the TNEB to undergo B.E. Electrical and Electronics Engineering in Vinayaga Missions Research Foundation Deemed University, Salem, through Distance Mode of Education. The petitioners were granted permission to undergo the aforesaid course by the Superintending Engineer, Electricity Distribution Circle Pudukottai.

iii) Pursuant to the above, the petitioners had joined the course and completed B.E. Degree in Electrical and Electronics Engineering from Vinayaga Missions Deemed University, Salem. The 1st and 4th petitioners had completed the degree in the year 2009 and the 2nd and 3rd petitioners had completed the degree in the year 2008.

iv) Admittedly, the TNEB through various channels had promoted the 1st petitioner as Foreman and the other three petitioners as Junior Engineer II Grade Electrical (JE). It is alleged that the petitioners had the requisite service and were awaiting promotion as Assistant Engineer.

v) Importantly, on 01.07.2009, the 3rd respondent - TNEB vide letter having reference No.057700/512/G55/G551/2009-1 called for application from the eligible candidates for filling up of vacancies in the post of Assistant Engineer (Electrical) through internal selection. The relevant portion of the said notification reads as under:

" It is proposed to call for application from the qualified employees of Board, who have passed B.E.(Electrical) only part time or Regular or equivalent or Section A and B of AMIE Examination as referred to in Regulation 94



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Annexure-III for consideration and appointment to the post of Assistant Engineer/Electrical by Internal Selection.

2. The employees working in Regular work establishment and Provincial Cadres who are in possession of the above said qualification are eligible for consideration for this selection and appointment as Assistant Engineer (Electrical) and acquiring B.E. degree through Distance Education from any Universities and acquiring M.E / M.Tech. degree without basic qualification of B.E. Degree, employees are not eligible for consideration and appointment to the post of Assistant Engineer (Electrical) by Internal Selection."

While the petitioners had applied to the said post well before the last date prescribed in the notification, citing the above clause, their applications were rejected by the TNEB for considering the appointment as Assistant Engineer (Electrical), on the premise that the B.E. Course imparted by Vinayaga Missions Deemed University through Distance Education Learning (DEL), was not recognised by TNEB as a proper qualification for the post of Assistant Engineer (Electrical).

vi) It is claimed that the above notification prescribing the qualification for the aforesaid post is contrary to Article 94 of the Tamil Nadu Electricity Board Service Regulations.

vii) The above issue relating to recognition of Degrees conferred by Deemed Universities through Distance Education Learning (DEL), came up before the Hon'ble Supreme Court for consideration. The Hon'ble Supreme Court in the case of Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro reported in 2018 SCC 298, issued a one-time relaxation for the candidates who had enrolled for the Degree during the academic years, 2001-2005. The following portions of the order will make the position clear:

"26. We, therefore, as a one-time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct.

26.1. All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

26.2. This facility is given as one-time exception so that those who have the ability and



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can pass the test in the first attempt itself, should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the advantages. But, if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

26.3 We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this order, AICTE shall however extend the time to exercise the option to appear at the test suitably.

27. Except for the directions given in the preceding paragraph i.e., para 26 and the clarification as regards courses leading to award of diplomas as mentioned herein above, we reject all the other submissions."

viii) Pursuant to the above orders of the Hon'ble Supreme Court, the Member Secretary of AICTE issued a letter bearing F.No.13-60/P&AP/SC-Legal/Dist.Edu./2019 dated 26.04.2019 notifying the conduct of validation exams for four Universities including the 2nd respondent herein, under the joint supervision of AICTE-UGC.

ix) The thrust of the petitioners' argument is that out of the 4 petitioners, R.Appasamy, K.Ambikapathi and C.Paneer Chelvam had appeared for the revalidation exam conducted by AICTE at Anna University between 16.12.2008 to 19.12.2008 and passed the exam and have been issued with the Validation Certificate by AICTE. It is submitted that the 3<sup>rd</sup> petitioner/A. Selvaraj had not appeared for the revalidation exam and thus the prayer in the writ petition is not being pressed in respect of the 3<sup>rd</sup> petitioner herein viz., A. Selvaraj

x) It may also be relevant to note that a learned Single Judge of this Court in W.P.No.33033 of 2019 dated 06.02.2020, wherein while considering a similar case with a prayer to re-designate them as Assistant Engineers from the date of acquiring their B.E. Degree, the learned Single Judge issued the following directions on taking note of the order of the Hon'ble Supreme Court in the case of Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro, which reads as under:

"25. In view of the above discussion, there shall be a direction to the 2nd respondent to re-designate the petitioners as Assistant Engineers



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in accordance with the Service Regulations and consider their seniority from the year 2009 onwards and fit them accordingly, in the seniority list. Appropriate Orders shall be passed in this regard within a period of four weeks from the date of receipt of copy of this order."

3. It is submitted by Mrs.Nalini Chidambaram, learned Senior Advocate appearing on behalf of the petitioners that the case of the petitioners for promotion as Assistant Engineer (Electrical) in TNEB by considering the B.E. Degree in Electrical obtained through Distance Learning Mode as eligible for getting appointed as Assistant Engineer (Electrical), should be considered as per the TNEB Service Regulations within a particular time frame, taking into account the orders of the Supreme Court in Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro and that of the learned Single Judge in W.P.No.33033 of 2019, after giving a personal hearing and considering migration certificate and any other documents that may be filed during the personal hearing.

4. Mr.Subramaniam, learned counsel appearing on behalf of the respondents does not have any serious objection to the above prayer.

5. In view of the above, this Court directs the 3rd respondent to consider the case of the petitioners to treat the B.E. Degree obtained through Distance mode as eligible for getting appointed as Assistant Engineer (Electrical) as per Article 94 Annexure-III of Tamil Nadu Electricity Board Service Regulations in view of the fact that the petitioners have obtained a Validation Certificate and to take into account the decision of the Hon'ble Supreme Court in the case of Orissa Lift Irrigation Corporation Ltd. Vs. Rabi Sankar Patro and the order of the learned Single Judge of this Court in W.P.No.33033 of 2019 and to consider if the same is applicable to the petitioners after giving a chance of personal hearing and also taking into account the submission and all documents that may be submitted by the petitioners during personal hearing and to pass appropriate orders within a period of 3 weeks from today.

6. With the above directions, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,  
Distance Education Council (DEC),  
Indira Gandhi National Open University,  
Maiden Garthi, New Delhi.

2.The Registrar,  
Vinayaga Missions Deemed University,  
Salem.

3.The Chief Engineer/Personal,  
Tamil Nadu Electricity Board,  
VIII Floor, NPKRR Maaligai,  
800, Anna Salai, Chennai-600 002.

+1cc to M/s.C.Uma, Advocate, S.R.No.63862

W.P. No.14990 of 2010

RP(CO)  
SB(06/12/2021)