

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04-02-2021

Coram:

The Honourable Mr. Justice R. Subbiah
and
The Honourable Mr. Justice Sathi Kumar Sukumara Kurup

Writ Appeal No. 3884 of 2019
and
Writ Petition No. 14337 of 2020

Writ Appeal No. 3884 of 2019

1. The Chief Engineer/Personnel
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
TNEB Complex, 144, Anna Salai
Chennai - 600 002
 2. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
TNEB Complex, 144, Anna Salai
Chennai - 600 002
- .. Appellants/Respondents
- Versus
1. A.C. Selvamani
Wire Man
Office of Assistant Engineer
MPT/Lab/CEDC Chennai Central
Nandhanam, Chennai - 35
 2. R. Velmurugan
Field Assistant
Office of the Assistant Engineer
Maintenance 230 KV Sub Station
Ponnapuram, Salem - 636 106
 3. A. Vasudevan
Commercial Inspector
Office of Assistant Executive Engineering
Operation and Maintenance/East
Namagiripettai, Namakkal Circle
Namakkal

4. M. Radhakrishnan
Commercial Assistant
Office of Assistant Engineer
Jalagandapuram/North
Mettur Distribution Circle
Mettur, Salem
5. P. Ponnusamy
Commercial Inspector
Operation and Maintenance/Moore Palayam
Tiruchengode, Namakkal Circle
Namakkal
6. S. Jothi
Field Assistant
Office of Assistant Engineer
Operation and Maintenance/Rural North
Cuddalore OT, Cuddalore
7. M. Thentamil
Commercial Assistant
Office of Assistant Engineer
Operation and Maintenance/
Jalagandapuram South
Mettur Distribution Circle
Mettur, Salem
8. S. Chitradevi
Commercial Assistant
Office of Junior Engineer
Operation and Maintenance/Kadampatty II
Mettur EDC
9. A. Kannan
Commercial Assistant
Office of Assistant Engineer
Operation and Maintenance/
Tiruchengode Central
Namakkal EDC, Namakkal
10. A. Sridhar
Commercial Assistant
Office of Junior Engineer
Operation and Maintenance/Gobi North
Gobi EDC

11. N. Kumaravel
Commercial Assistant
Office of Junior Engineer
Nambiyur 110KV Sub Station
Gobi EDC
12. R. Raja
Commercial Assistant
Office of Assistant Engineer
Operation and Maintenance/Chittoor
Mettur EDC
13. S. Kalaiselvi
Commercial Assistant
Office of Assistant Engineer
Operation and Maintenance/
Tiruchengode North
Namakkal EDC
14. C. Lavanya
Commercial Inspector
Office of Assistant Engineer
Operation and Maintenance/Kannankurichi
Salem EDC, Salem
15. S. Thahir Basha
Field Assistant
Office of Assistant Engineer
Operation and Maintenance/Kadaperi
Chennai South II EDC
16. T. Rajathi
Commercial Assistant
Office of Assistant Engineer
Operation and Maintenance/Vandavasi
Mettur EDC/Mettur Dam-1
17. G. Srineevasan
Assessor
Office of Assistant Engineer
Operation and Maintenance/Vishnu Kanghi
Kanchipuram EDC
18. The All India Council for Technical Education (AICTE)
Southern Regional Office
Shastri Bhavan
No.26, Haddows Road, Nungambakkam
Chennai - 600 006

(18th respondent impleaded as per order dated
04.12.2019 made in CMP No. 25628 of 2019
in WA No. 3884 of 2019) .. Respondents /Petitioner

WP No. 14337 of 2020

1. Shirajudeen
Son of S. Ismail
Commercial Inspector
Office of Assistant Engineer/Town/Bodi
Theni EDC
2. K. Sivakumar
Son of Kanniappa Mudhaliar
Commercial Inspector
Office of Executive Engineer/Distn/Theni Division
Theni EDC
3. S. Muppidathi
Son of N. Subramanian
Commercial Assistant
Office of Assistant Engineer/Rural/Sankarankovil
Sankarankovil Division
Tirunelveli EDC
4. K. Dhanasekar
Son of Kasi
Wireman
Office of Junior Engineer/O&M/Kathiyavadi
/Arcot Division/Vellore Circle .. Petitioners

Versus

1. The Chief Engineer/Personnel
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
TNEB Complex, 144, Anna Salai
Chennai - 600 002
2. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
TNEB Complex, 144, Anna Salai
Chennai - 600 002 .. Appellants

Writ Appeal No. 3884 of 2019 filed under Clause 15 of
Letters Patent against the Order dated 14.03.2019 passed in WP
No. 11609 of 2017 on the file of this Court.

WP.No.11609 of 2017:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Mandamus to promote petitioners to the post of Technical Assistant (Electrical) for internal selections under available vacancies of the respondents corporation on par with their juniors w.e.f. 22.9.2016 with all service and monetary benefits within the time limit fixed by this Honourable court.

WP No. 14337 of 2017 filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus as stated therein.

WP.No.14337 of 2017:Writ of Mandamus for direction,directing the respondents to promote the petitioners retrospectively to the post of Technical Assistant (Electrical) and further promotions for internal Selection under available vacancies of the respondent's corporation on par with their Juniors w.e.f 22.09.2016 with all service and monetary benefits within the time limit fixed by this Hon'ble court.

WA No. 3884 of 2019

For Appellants : Mr. Anand Gopalan
for M/s.T.S.Gopalan & Co
For Respondents : Mr. M. Vijaya Kumar for RR1 to 17
Mr. B. Rabu Manohar for R18

WP No. 14337 of 2020

For Petitioners : Mr. M. Vijayakumar
For Respondents : Mr. Anand Gopalan
for M/s. T.S. Gopalan

COMMON JUDGMENT

Judgment of the Court was delivered by R. Subbiah, J

The Writ Appeal has been filed by the Tamil Nadu Electricity Board as against the order passed by the learned single Judge on 14.03.2019 allowing the writ petition No. 11609 of 2017 filed by the respondents 1 to 17/writ petitioners, who are employees of the Tamil Nadu Electricity Board working in various posts. The writ petition No. 11609 of 2017 was filed for a Mandamus to direct the respondents therein to promote the writ petitioners to the post of Technical Assistant (Electrical) for internal selections under available vacancies of the respondents corporation on par with their juniors with effect from 22.09.2016 with all service and monetary benefits within a time limit to be specified by the Court.

2. WP No. 14337 of 2020 has been filed by the petitioners seeking to issue a Writ of Mandamus directing the respondents to promote the petitioners retrospectively to the post of Technical Assistant (Electrical) and further promotions for internal selection under available vacancies of the respondents' corporation on par with their juniors w.e.f. 22.09.2016 with all service and monetary benefits within the time limit fixed by this Court.

3. Since the issues involved in W.A. No. 3884 of 2019 is identical and connected with the issues involved in the writ petition No. 14337 of 2020, WP No. 14337 of 2020 was also directed to be posted along with the Writ Appeal No. 3884 of 2019 for disposal.

4. The claim of the writ petitioners in WP No. 11609 of 2017 as also WP No. 14337 of 2020 is that they are Diploma holders of vertically integrated Engineering programme conferred by Indira Gandhi National Open University. Based on such qualification, the writ petitioners sought for promotion to the post of Technical Assistant (Electrical). Originally, their claim was not accepted because the Diploma obtained by them was not recognised by All India Council for Technical Education. According to the writ petitioners, in similar and identical matter before the Honourable Supreme Court, in the case of Mukul Kumar Sharma and others vs. All India Council for Technical Education and others passed in WP (C) No. 382 of 2018 dated 30.07.2018, The All India Council for Technical Education (AICTE) has stated No Objection for recognising the B.Tech Decree/ Diploma conferred by IGNOU. Following the said decision of the Honourable Supreme Court, in the letters dated 11.12.2018 and 06.12.2019, AICTE has taken a definite stand that in view of the Judgment of Honourable Supreme Court dated 30.07.2018 in Mukul Kumar Sharma and others vs. AICTE and others, they have no objection for recognising B.Tech degree/diploma in Engineering awarded by IGNOU to the students who were enrolled upto the academic year 2009-2010 to be treated as valid as a special case and it could not be taken as a precedence.

5. On 10.12.2019, when the above writ appeal was taken up for hearing, this Court directed AICTE to file an affidavit stating as to whether the programme undertaken by the respondents had been approved by AICTE or not and more particularly, whether the course undergone by the respondents in the year 2010-2012 was under open distance education mode or not.

6. Pursuant to such direction, an affidavit dated 08.12.2020 has been filed by the Regional Officer, AICTE along with judgment dated 18.09.2020 of the the Honourable Supreme

Court passed in WP (C) No. 1341 of 2019 in the case of (Md. Naseem Baig and others vs. All India Council for Technical Education and others) in WP (C) No. 1341 of 2019 wherein it has been held as follows:-

"Heard the learned counsel for the parties.

In the present case, the petitioners before us are diploma holders in what is called the Vertically Integrated Engineering Programme, which is one of the two distance education courses conducted by IGNOU. We had, vide order dated 11.03.2019, stated that degrees and diplomas of IGNOU in such distance education courses up to the years 2009-2010 be left undisturbed. We grant the same relief to the petitioners who will be covered in the years 2010-2011 and 2011-2012.

We make it clera that since there is no distance education courses in IGNOU after these years and these are the last batches who will be granted the reliefs that were granted by our order dated 11.03.2019, as a one-time measure therefore, these batches will also be granted this relief. We allow this writ petition with no order as to costs."

7. Today, when the writ appeal as well as writ petitions were taken up for hearing, it is stated by the learned counsel for AICTE that the said judgment applies to the case of the writ petitioners herein. It is further stated that as per the decision of the Honourable Supreme Court, AICTE recognises the decree and diploma awarded by IGNOU through distance education to the candidates who were enrolled with IGNOU upto the academic sessions 2010-2011 and 2011-2012 and no further separate order needs to be issued by AICTE.

8. Accordingly, the appellants are directed to consider the representation of the writ petitioners in the light of the Judgment referred to above and to pass appropriate orders with regard to the claim of promotion preferably within a period of four weeks from the date of receipt of a copy of this order. The Writ Appeal as well as the writ petition are disposed of. No costs. Consequently, connected miscellaneous petition (s) are closed.

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Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The Chief Engineer/Personnel
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
TNEB Complex, 144, Anna Salai
Chennai - 600 002

2. The Chairman
Tamil Nadu Electricity Board/TANGEDCO
8th Floor, NPKRR Maaligai
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3. The All India Council for Technical Education(AICTE)
Southern regional office,
Shastri Bhavan,
No.26, Haddows Road
Nungambakkam,
Chennai-600 006

+2 ccs to M/s.T.S.Gopalan & Co Advocate sr Nos 6137 & 6138

+2 ccs to Mr.M.Vijayakumar Advocate sr nos.6519 & 6518

+1 cc to Mr.B.Rabu Manohar Advocate sr6409

WA No. 3884 of 2019
and
WP No. 14337 of 2020

ln(co)
aa17/03/2021

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