



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.07.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.A. (MD) No.1506 of 2021

and

C.M.P. (MD) No.6161 of 2021

1. The Chairman and Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited,
(TANGEDCO LTD)
NPKRR Maaligai, 144, Anna Salai, Chennai - 600 002.
 2. The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation Limited
(TANGEDCO LTD)
NPKRR Maaligai, 144, Anna Salai, Chennai - 600 002.
 3. The Superintending Engineer,
Office of Superintending Engineer,
Karur Electricity Distribution Circle,
Karur - 2 .. Appellants/Respondents
- Vs
- Mohamed Ibrahim ... Respondent/Writ Petitioner

PRAYER: Appeal under Clause 15 of the Letters Patent, to set aside the order dated 17.03.2021 passed in W.P.(MD) No.15115 of 2020.

Prayer in WP(MD). 15115/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, call for the records in respect of order passed by the 2nd Respondent vide office proceedings in Lr.No. 024396/108/G55/G551/2015 dated 14.05.2020 and quash the same as illegal and consequently direct the Respondents to appoint the petitioner in the post of Assistant Engineer /Electrical under Respondents office within a stipulated period that may be fixed by this Honourable Court.

For Appellants	: Mr.T.S.Gopalan and Co
For Respondent	: Mr.Henri Tiphagne

JUDGMENT

[Judgment of the Court was delivered by **The Hon'ble Chief Justice**]

The appeal arises out of an order of March 17, 2021 by which



the writ petition has been allowed and the writ petitioner, in effect, has been directed to be given a job by Tamil Nadu Generation and Distribution Corporation Limited, (for short, 'TANGEDCO').

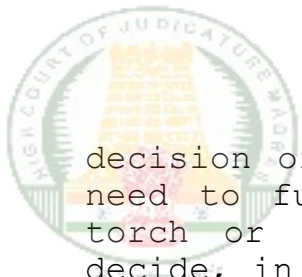
2. Pursuant to applications being invited to the post of Assistant Engineer (Electrical), the writ petitioner duly applied therefor. The writ petitioner appears to have been found qualified in all regards before he underwent a medical examination. At such medical examination, the writ petitioner was found to be deficient in identifying colors. The employer considered the medical reports since the petitioner was required to undergo further medical tests and a decision was made by a panel of officials including an ophthalmologist.

3. TANGEDCO indicated to the petitioner that since the job of an Engineer would involve dealing with power cables and individual wires were colour coded, the petitioner, with the condition that he suffered, would be at risk or would not be efficient in discharging the duties assigned to the post. On such ground, the petitioner's candidature was rejected. This order of rejection was questioned in proceedings under Article 226 of the Constitution.

4. The writ court reasoned that since the petitioner was not colour blind as such, the condition of "defective colour vision" suffered by the petitioner may not be an impediment to the petitioner discharging the duties of an Assistant Electrical Engineer. The writ court also referred to there being no norms pertaining to defective colour vision and perceived the rejection of the petitioner's candidature to be a colourable exercise of authority.

5. That the petitioner suffered from the condition is beyond doubt. As to how the condition would affect a person while discharging the duties of Assistant Electrical Engineer may not be within the full grasp of the court. A specialised team was set up with an ophthalmologist on board to consider the matter. After due deliberations, the committee was of the unanimous opinion that the petitioner could not be allowed to take up the post since the condition that he suffered from would impede his functioning and, considering the high tension wires and other sensitive electrical equipments that are handled by an Engineer or Assistant Engineer, the petitioner could be at risk if allowed to join the post and operate as an Engineer.

6. In proceedings under Article 226 of the Constitution, it is the decision-making process which is questioned more than the decision itself, unless the decision appears to be so absurd that it would not appeal even to the meanest mind. Though the Wednesbury test of reasonableness of yore has slowly given way to the modern doctrine of proportionality, even by such yardstick, the impugned



decision of TANGEDCO cannot be said to be without basis. Engineers need to function, sometimes in closed places with the help of a torch or flashlight. In emergency situations, Engineers need to decide, in a split-second, as to which wire to pull and which not to touch. If the decision-making at such time is impaired or affected by a condition that the petitioner suffers from, the person may be found unfit for the position.

7. All that TANGEDCO communicated to the petitioner was that the special committee constituted to look into the petitioner's case had opined that the petitioner would not be fit to discharge the duties involved in such post. There is always a presumption that a statutory body or an authority answering to that description under Article 12 of the Constitution would have acted in a reasonable manner and would have taken relevant considerations into account before passing an order or arriving at a decision. While such presumption may be rebuttable, the writ petitioner does not indicate any manifest arbitrariness in the impugned decision of TANGEDCO for the Court to perceive the same to be grossly disproportionate to the condition that the writ petitioner suffers from or the handicap that accompanies such condition.

8. For the reasons aforesaid, the judgment and order impugned does not appeal. Courts should be slow in interfering in such areas, particularly where Judges may not have the requisite expertise. The prospective employer in this case constituted a special committee with an expert on board and it was the unanimous decision of the committee that the petitioner would not be suitable for the post. Though the writ petitioner deserves the court's sympathy, misplaced sympathy cannot be a substitute for cogent grounds to undo an administrative order.

9. W.A.(MD) No.1506 of 2021 is allowed by setting aside the judgment and order impugned dated March 17, 2021. W.P.(MD) No.15115 of 2020 stands dismissed in the light of this order. Consequently, connected C.M.P.(MD) No.6161 of 2021 is closed.

9. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

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Office of Superintending Engineer,
Karur Electricity Distribution Circle,
Karur - 2

+1 CC to M/s.T.S.GOPALAN AND CO, Advocate (SR-25093[F] dated
03/08/2021)

W.A. (MD) No.1506 of 2021
and
C.M.P. (MD) No.6161 of 2021
30.07.2021

RD(9.08.2021) 4P 5C