



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.18620 to 18623 of 2016
and W.M.P. Nos.16307 to 16310 of 2016

M.Kannan

...Petitioner
in W.P.Nos.18620 & 18622 of 2016

S.Wilfred Masilamani

...Petitioner
in W.P.Nos.18621 & 18623 of 2016

Vs.

1.The Tamil Nadu Generation & Distribution Corporation Limited,
(TANGEDCO)
Rep. by its Chairman and Managing Director,
No.144, Anna Salai,
Chennai – 600 002.

2.The Secretary,
Tamil Nadu Generation & Distribution Corporation Limited,
(TANGEDCO)
No.144, Anna Salai,
Chennai – 600 002.



3. The Chief Internal Audit Officer,
Audit Branch,
Tamil Nadu Generation & Distribution Corporation Limited,
(TANGEDCO)
NPKRR Maligai, 1st Floor, No.144, Anna Salai,
Chennai – 600 002.

Respondents
in all W.Ps

Common Prayer in W.P.Nos.18620 of 2016 & 18621 of 2016: Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings issued by the 3rd Respondent in Memo No.012710/633/F.1/F.12/2016-01 and Memo No.012710/633/F.1/F.12/2016-02, respectively dated 28.04.2016 and to Quash the same.

Common Prayer in W.P.Nos.18622 of 2016 & 18623 of 2016: Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to impugned proceedings issued by the 3rd Respondent in Memo No.016449/804/F.1/F.12/2016-04 and Memo No.016449/804/F.1/F.12/2016-01, respectively dated 29.04.2016 and to Quash the same.

For Petitioner : Mr.S.Nedunchezhiyan
in all W.Ps

For Respondents : Mr.P.Subramanian
in all W.Ps TANGEDCO



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ORDER

The Show Cause Notice issued by the respondents calling upon the writ petitioner to submit his explanation regarding the requisite educational qualification for promotion to the post of Assistant Audit Officer in Tamil Nadu Electricity Board is under challenge in the present writ petitions.

2.The petitioners were promoted to the post of Assistant Audit Officer. On verification the respondents found that the petitioners did not possess the requisite educational qualification and the degree possessed by the petitioners were through Open University System which was declared as invalid for public appointments by the respondent Board. Open University degrees are held invalid by the State Government as well as the respondent Board pursuant to the judgment of the Hon'ble Supreme Court of India in Annamalai University case.

3.Regarding the invalid degree possessed by the petitioner, the respondents issued a show cause notice calling explanation from the writ petitioner with reference to the validity of the degree possessed by them. Instead



of submitting the explanation, the petitioners have chosen to file the present writ petitions. Yet another writ petitions were filed challenging the very same show cause notice to recover the excess incentive increment which was granted based on the invalid degree possessed by the petitioners. In respect of both the show cause notices, the petitioners have to submit their explanation and a final decision is to be taken by the competent authorities.

4.No writ against the show cause notice is entertainable in a routine manner. A writ against a show cause notice is entertainable, only if it is tainted with malafides or issued by an incompetent authority. In the present case, the petitioners have to submit their explanation on merits with reference to the validity of the degree possessed by them and regarding the eligibility for incentive increment for possessing the degree qualification.

5.The learned counsel for the respondents made a submission that the petitioners possessed the degree through Open University System which is invalid for the purpose of promotion and for grant of incentive increment, therefore, the show cause notice was issued.



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6.The petitioners have already attained the age of superannuation and retired from service. Therefore, the authorities have to consider all the facts and circumstances and take a decision on merits and in accordance with law. The petitioners are at liberty to submit their explanations on the show cause notice along with documents, if any, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondents/competent authorities shall decide the issues on merits, as expeditiously as possible.

7.Accordingly, these writ petitions are disposed of. No Costs.
Consequently, connected miscellaneous petitions are closed.

14.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
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S.M.SUBRAMANIAM, J.

SSR

To

- 1.The Chairman and Managing Director,
Tamil Nadu Generation & Distribution Corporation Limited,
(TANGEDCO)
No.144, Anna Salai,
Chennai – 600 002.
- 2.The Secretary,
Tamil Nadu Generation & Distribution Corporation Limited,
(TANGEDCO)
No.144, Anna Salai,
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