



WEB COPY



W.P.No.28260 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.28260 of 2017
and
W.M.P.No.30374 of 2017
and
W.M.P.No.25085 of 2019

S.Rajmohan

...Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
Chennai – 600 010.

2.Additional Registrar-cum-Vigilance Officer,
Tamil Nadu Civil Supplies Corporation Ltd.,
Chennai – 600 010.

3.Deputy Collector/Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Villupuram Region, Villupuram,
Villupuram District.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in her proceedings



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Na.Ka.No.E11/ 5635/2017 dated 17.10.2017 and quash the same, and direct the respondents to confer all the consequential benefits to the petitioner.

For Petitioner : Mr.C.Vediappan
For M/s.C.S.Associates

For Respondents : Dr.K.Thirugnanam

ORDER

The order impugned dated 17.10.2017, cancelling the appointment of the writ petitioner as Electrician is under challenge in the present writ petition.

2. The petitioner states that pursuant to the Recruitment Notification issued by the third respondent, he participated in the process of selection for appointment to the post of Electrician. The petitioner states that he possessed the requisite qualification for selection to the post of Electrician. The petitioner participated in the interview on 04.01.2017 and he was appointed as Electrician on 04.01.2017 and joined on 11.01.2017 in Modern Rice Mill, Kallakurichi. While the petitioner was working, the third respondent issued the impugned order dated 17.10.2017, cancelling his



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appointment on the ground that the selection was confined to SC Candidates alone and no other candidates from other communities were called for, despite the availability of seven candidates from BC and MBC and no written test was conducted. The petitioner states that the order impugned was issued without any notice.

3. The learned counsel for the petitioner mainly contended that the selection was conducted by following the procedures and the petitioner was successful in the process of selection and consequently, appointed to the post of Electrician. Thus, there was no infirmity in respect of the selection and appointment of the writ petitioner and the non-selection of the other community candidates cannot be a ground to cancel the appointment issued in favour of the writ petitioner. Though written test was not conducted, the interview was conducted as per the Notification. The Employment Exchange sponsored five candidates, 4 from SC community and 1 from BC community. In response to the paper publication, 11 candidates including the petitioner applied. Out of the 11 candidates, 4 candidates belong to BC, 1 from BC (Muslim), 2 from MBC and 4 from SC/ST. Therefore, the procedure as such notified were followed and the petitioner was appointed.



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If at all any error occurred in the process of selection, the petitioner cannot be penalized.

4. The learned counsel for the respondents objected the said contentions raised on behalf of the petitioner by stating that the petitioner had an opportunity of appeal before the first respondent and he has not exhausted the said appeal as per Regulation 23 of the Tamil Nadu Civil Supplies Corporation Employee's Service Regulation.

5. The 3rd respondent had called for a list of three candidates from Villupuram Employment Exchange for appointing 3 Electricians post in the 200 point roster Sl.No.1, General Sl.No.2. Scheduled castes and Sl.No.3, Most Backward Classes vide Letter dated 25.10.2011 and 10.11.2011. The District Employment Officer, Villupuram had sent a list of 3 set of candidates in the above mentioned communal roster in duplicate vide Letter No.2011 G.O.216 dated 14.11.2011. But, the 3rd respondent had appointed 2 Electrician post in 200 point roster Sl.No.1 General turn Thiru.G.Nethaaji, S/o.L.Gajendran and Sl.No.2, Scheduled Caste T.Mahadevan, S/o.Thanjavelu vide Proc.No.E13/17588/2010, dated 05.12.2011. The above



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mentioned 2 Electricians appointments have been informed to the District Employment Officer in vide Letter dated 05.06.2012.

6. In the year 2014, the 3rd respondent had identified two Electrician posts vacant in the Modern Rice Mill, Kallakurichi and Thirukoilur, consequently the 3rd respondents called a list of candidate for appointing 2 Electrician in the 200 point roster Sl.No.3, Most Backward Classes (Non priority) & Sl.No.4, S.C. General (Non priority) vide Lr.No.E13/5092/2014, dated 08.12.2014, Sl.No.4, General (Non priority), which is against the G.O.Ms.No.65. The correct turn of the roster Sl.No.3, Most Backward Caste and Sl.No.4, Backward Classes (Other than Backward Class Muslims). However, District Employment Officer, Villupuram had sponsored a list of Most Backward Classes (Non priority) & S.C. General (Non priority) vide letter A2/X2/191/2014 dated 08.12.2014. The candidates sponsored by District Employment Exchange were called for interview vide 3rd Respondent letter dated 22.01.2015. Accordingly, 4 candidates in S.C. General (Non priority) and 3 candidate's in Most Backward Classes participated in interview conducted by the Committee on 05.02.2014.



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7. After lapse of 1 year, the 3rd respondent had called a list of candidates from District Employment Office for appointing 1 post of Electrician in 200 point roster General (Non priority) vide dated 03.02.2016 and fixed the age limit as on 29.02.2016 and announced in two daily Tamil News paper. As per G.O.Ms.No.65, Personnel and Administrative Reforms (K) Department, dated 27.05.2009, this Electrician post should be filled by Most Backward Classes. But, the 3rd respondent had wrongly called for candidates in General Turn category instead of Most Backward Classes. The Employment Exchange sponsored the following candidates.

Employment Exchange Sponsored Candidates

<i>Sl. No.</i>	<i>Name of the Candidate and community</i>	<i>Date of Birth</i>	<i>Age as on 29.02.2016</i>
1	R.Gopalakrishnan, S.C	03.06.1981	34.8
2	P.Sridhar, S.C	14.04.1980	35.2
3	P.Uthirakumar, S.C	20.05.1980	35.1
4.	V.Shanmugam, S.C	05.07.1982	33.7
5	V.Veeramanikandan, B.C	10.10.1978	37.4

Open Competition Candidates

<i>Sl. No.</i>	<i>Name of the Candidate and community</i>	<i>Date of Birth</i>	<i>Age as on 29.02.2016</i>
1	S.Rajmohan, S.C	13.05.1981	34.9
2	B.Ragavel, B.C	13.03.1991	24.11



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Sl. No.	Name of the Candidate and community	Date of Birth	Age as on 29.02.2016
3	Tamilselvan, M.B.C	28.02.1990	26.0
4.	K.Gopikrishnan, M.B.C	13.03.1981	34.11
5	K.Thiruneelakandian, S.C	13.03.1983	32.11
6	B.Manikandan, S.C	25.05.1981	34.9
7.	P.Sabarathan, B.C	30.07.1996	19.4
8.	A.Brakelin, S.C	30.06.1979	36.7
9.	R.Sathiyaseelan, B.C	20.05.1984	31.9
10	Sheeshan Khan, B.C	25.05.1991	24.9
11	Harikrishnan prabu, B.C	05.12.1991	24.2

8. On scrutiny of the above open competition application, the following misleading note has been deliberately submitted to the 3rd respondent for orders as follows:

Open Competition Candidates:

1. SI.No.2 Backward Classes
2. SI.No.3 Most Backward Classes
3. SL.No.6 Higher Education
4. SI. No.7 Backward Classes
5. SI.No.9, 10 & 11 Backward Classes

9. The above mentioned candidates belong to Backward Classes. Hence, they are not eligible as per communal roster and age limit prescribed.



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So, the following S.C. candidate's found eligible were called for interview in

General Turn (Non priority) vide Lr.No.E13/6433/2015 dated 14.12.2016.

1. R.Gopalakrishnan, S.C
2. V.Shanmugam, S.C
3. S.Rajmohan, S.C
4. K.Neelakandan, S.C
5. B.Manikandan, S.C

10. The appointment process had been initiated for filling up the Electrician post in General Turn. In the above manner, the 3rd Respondent's office had deliberately & wrongly eliminated the candidates in Sl.No.2,3,6,7,9,10 & 11 (All B.C & MBC) on the above grounds and wantonly isolated only the S.C. Candidates as being qualified for attending the interview. By this act of the 3rd respondent Office willfully & intentionally, the candidate S.Rajmohan S/o Samuval, Villupuram Region has been included in the eligible list of candidates called for interview. By virtue of marks scored, he has been selected by appointment committee.

11. It is further stated that applications are invited for filling up one post of Electrician on or before 22.07.2016. But, Thiru.S.Rajmohan,



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S/o.K.Samuvel, (Selected candidate) open candidate has furnished Wireman B certificate which was issued by the Secretary, Electrical Licensing Board, Guindy only on 20.09.2016. (Later than the last date of submission of application i.e. 22.07.2016). This clearly shows that the "B" licence certificate has been inserted in the files containing the application form received before 22.07.2016 by the influence of his father Thiru K.Samuvel, Superintendent, Villupuram Region.

12. Based on the Report of the Vigilance Officer, the 1st Respondent issued a letter to 3rd Respondent, had cancelled the appointment of the petitioner as per Regulation 22 in chapter V and initiated disciplinary action against who are all enquiry officer. Therefore, the petitioner cannot find fault with.

13. In respect of the contentions raised on behalf of the writ petitioner that no notice was issued, the respondents have stated that the appointment was purely temporary and it does not confer any right to make any preferential claim at a later date and that this temporary appointment shall be cancelled at any time without any prior notice and without assigning any



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reason. Since the appointment of the writ petitioner was purely temporary, question of providing an opportunity, issuing a show cause notice would not arise at all.

14. The respondents have stated that the father of the writ petitioner Mr.K.Samuel was working as Superintendent in Civil Supplies Corporation at Villupuram. He made several manipulations for the purpose of selecting and appointing his own son, who is the writ petitioner. The mandatory requirement of written examination process was not conducted for selection and appointment. Therefore, meritorious candidates had been deprived of their opportunity to participate in the selection process. The third respondent had not followed the 200 point roster nor conducted the written examination and thus, failed to give fair opportunity to all the candidates, who had applied through open competitive process. Since the candidates, who submitted their applications were deprived of their right of equal opportunity, and the process of selection was conducted in violation of the basic principles, the appointment of the writ petitioner was cancelled by the competent authorities. Thus, the writ petition is to be rejected.



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15. Equal opportunity in public employment is the constitutional mandate. Rule of Reservation is to be followed scrupulously, while undertaking the process of selection. In the present case, admittedly, no written examination was conducted and the Rule of Reservation was also violated. That apart, the father of the writ petitioner was working as Superintendent in Villupuram Region in the respondent Corporation and there was a Vigilance enquiry in respect of the selection of the petitioner and based on the inputs, the impugned order of cancellation was issued. Thus, the process of selection was conducted in a corrupt manner and the petitioner was selected and appointed illegally, depriving the opportunity of all other candidates to participate in the process of selection.

16. When the selection is tainted with the allegations of corruption, malpractices or otherwise, then the cancellation of selection is consequential and no further show cause notice or otherwise is required in such circumstances. More so, the petitioner was appointed on temporary basis. Thus, he is liable to be dismissed at any point of time without any prior notice, since the selection and appointment of the writ petitioner was found to be not in order and in violation of the recruitment rules. Further, the

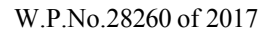


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process of selection was not conducted in accordance with the established procedures and the rules, the authorities competent had rightly took a decision and cancelled the appointment issued to the writ petitioner. Mere continuance of the writ petitioner in service during the pendency of the writ petition based on the interim order cannot be construed as it is a litigious employment and would not confer any right on him.

17. In the present case, all the established procedures for selection were violated. The petitioner was illegally selected and appointed. When equal opportunity in public employment is denied to all other candidates, who had participated in the process of selection, then the selection became unconstitutional and the appointed candidates have no vested rights to continue in services.

18. The respondents could not establish that the selection was not conducted in accordance with the rules and by following the procedures as contemplated, more so, no written examination was conducted and further, the petitioner was selected on account of the corrupt practices adopted by the father of the writ petitioner, who is working as a Superintendent in the



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Index : Yes
Speaking order:Yes
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To

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