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W.P.(MD)NO.26498 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26498 of 2022 and
W.M.P.(MD)Nos.20669 & 20671 of 2022

M.Jaikumar

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Anna Salai NPKRR Maligai,
Chennai – 600 002.
 2. The Chief Engineer / Personnel,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Tamil Nadu Electricity Board,
No.144, Anna Salai,
Chennai – 600 002.
 3. The Superintending Engineer,
Theni Electricity Distribution Circle,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
Theni.
 4. The Assistant Executive Engineer (Distribution),
Theni Electricity Distribution Circle,
Tamil Nadu Generation
and Distribution Corporation Ltd.,
Chinnamanoor,
Theni District.
- ... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent vide his proceedings in Ku.No.006326/725/ MePo/ Theni/ NiA/ NiPi1/ Vu1/ Ko.Maraiyam/ 2021 dated 18.08.2021 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner in service taking into consideration of the fact that he cleared the Tamil Language Exam conducted by the TNPSC and by considering the petitioner's representation dated 10.11.2022 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel,
for M/s.Ajmal Associates.

For Respondents: Ms.M.Parameswari,
Standing Counsel.

* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondents.



2. The writ petitioner joined TANGEDCO as Junior Assistant(Accounts) on 05.03.2018. As per the TANGEDCO service regulations, if he had not studied Tamil language in school, he should clear Tamil language test conducted by the Tamil Nadu Public Service Commission within two years. The petitioner could not clear the said test and therefore he was discharged from service on 16.06.2020. The petitioner filed W.P.(MD)No.11058 of 2020. The said writ petition was disposed of on 07.09.2020 in the following terms:-

“ 17. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

(i) The petitioner shall give a representation along with this order, apart from his earlier representation dated 21.05.2020, to the respondents, making a request to the respondents to give extension of time for completing the language examination in Tamil, till the next such examination is called for by the TNPSC and result is published thereon.



(ii) Once such representation is made along with the copy of this order, the respondents are hereby directed to consider the same and pass necessary orders giving such extension to the petitioner till such time, the next examination is called for by the TNPSC for the Tamil language examination.

(iii) Such extension to be given to the petitioner should be strictly restricted only till the examination is called for by the TNPSC and the date of publication of the result therefor.

(iv) It is made clear that, once such extension is given, the petitioner shall take all earnest efforts to participate in the examination and after full-fledged preparation, he should clear the same, otherwise, if he still fails in his attempt to clear the examination, it is open to the respondents to take action against the petitioner including the action of removal from service and in that case, the petitioner cannot



seek any sympathy, at that time, if such a drastic action is taken by the respondents.

(v) In view of the aforesaid directions, the respondents are hereby directed to pass necessary orders on such representation of the petitioner within a period of two weeks from the date of such representation along with the copy of this order. Accordingly, the impugned order can also be reviewed and revoked by the respondents.

(vi) It is further made clear that, this extension of time giving permission to the petitioner to have one more attempt to complete the Tamil language examination shall not be treated as a precedent or as a routine way, since the concerned regulation of the TANGEDCO has made it mandatory to complete the examination within a period of two years from the date of entry into service.”



3. The petitioner could not clear the test within one year thereafter in the next attempt. Therefore, he was discharged from service on 18.08.2021. However, the petitioner succeeded in clearing the said test in June 2022. Now the question that arises for consideration is whether the impugned order is liable to be interfered with.

4. The learned Senior counsel reiterated all the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to pass order in favour of the writ petitioner and grant relief as prayed for.

5. The respondents have filed detailed counter affidavit. Paragraph No.8 of the counter affidavit is as follows:-

“ I respectfully submit that the petitioner did not comply with the above regulation within a period of two years from his appointment date on 21.02.2018 and he joined service on 05.03.2018. After lapse of six years, the petitioner comes forward this Honourable Court offer cleared the Tamil Language Test. It is pertinent to point out



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that the petitioner had acquired the requisite qualification in the month of June 2022 and he entitled to get regularization from the date of acquiring qualification. The Honourable Court in W.P.(MD) No.11058 of 2022, dated 07.09.2020 among others held that, it is often to the respondents to take action against the petitioner including the action of removal from service.”

The learned Standing counsel would contend that the respondents cannot be faulted in any manner and that they have merely adhered to the Court order.

6. I carefully considered the rival contentions and went through the materials on record.

7. As rightly pointed out by the learned Senior counsel appearing for the petitioner, the object of incorporating the condition that the employee must clear Tamil language test, if he had not studied Tamil language in



the school is to encourage Tamilians to join the service. Here the facts appearing on record cannot be lost sight of. The writ petitioner is belonging to Scheduled Caste. He hails from Bodinayakkanur in Theni District. Both his parents are Tamilians. His father happened to be a Navy personnel. He is an ex-serviceman. Since his father was employed in various places, the petitioner also had to study in the schools in other states. That is how he took Hindi as his second language.

8. It is beyond dispute that Tamil is his mother tongue. The only stipulation is that the person concerned must have adequate knowledge in Tamil. The petitioner born in Bodinayakannur and who is very much a TANGEDCO employee for more than three years, obviously will have adequate knowledge in Tamil. To throw out a person belonging to Scheduled Caste who is a pucca Tamilian on this ground appears to be not correct. One should not be technical in such matters. The earlier order passed by this Court ought not to be mandatorily construed. The fact remains that as on date, the petitioner has cleared the language test. While I do not



interfere with the impugned order, I direct the respondents to reinstate the petitioner in service and regularise his service with effect from the date of his clearing unqualification. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

02.12.2022

Index : Yes / No
Internet : Yes/ No
PMU

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G.R.SWAMINATHAN,J.

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