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W.P.No.5430 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P. Nos.5430 & 5441 of 2019

and

W.M.P.No.6173 of 2019

W.P.No.5430 of 2019

K.Mayilazhagan – age 34 years

S/.K.Kanagesan

Madapalli Village

Madavalam Post

Tirupathur Taluk

Vellore District 635 653

... Petitioner

/Vs/

1.The Tamil Nadu Generation and Distribution
Corporation Limited

Rep. by its Secretary

No.144, Anna Salai

Chennai 600 002

2.The Chief Engineer/Personnel
Tamil Nadu Generation and Distribution
Corporation Limited

No.144, Anna Salai

Chennai 600 002

3.The Sub Collector
Tirupathur
Vellore District



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4.J.Jayakanthan

C/o.Tamil Nadu Generation and Distribution

Corporation Limited

Rep. by its Secretary

No.144, Anna Salai

Chennai 600 002

... Respondents

*(R4 impleaded as per order dated 09.07.2019
in W.M.P.No.11537 of 2019 in W.P.No.5430 of 2019)*

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Declaration declaring that the rejection of the priority certificate issued by the Sub Collector, Tirupathur, Vellore District having Ref.No.Na.Ka.No.A1/5529/2016 dated 01.03.2017 by the 2nd Respondent was arbitrary and consequently direct the 1st Respondent to consider the Petitioner for the post of Technical Assistant/Electrical under the priority category belonging to “family member of Land Acquired by Government” based on the 22.45 marks out of 100 secured by the Petitioner in the written exam conducted by the 1st Respondent in April 2017 pursuant to Notification No.1 of 2016 dated 28.02.2016 issued by the 1st Respondent calling for application for the post of Technical Assistant (Electrical).

W.P.No.5441 of 2019

K.Mayilazhagan – age 34 years

S/.K.Kanagesan

Madapalli Village

Madavalam Post

Tirupathur Taluk

Vellore District 635 653

... Petitioner

/Vs/



W.P.No.5430 of 2019

1.The Tamil Nadu Generation and Distribution
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*(R4 impleaded as per order dated 09.07.2019
in W.M.P.No.11537 of 2019 in W.P.No.5430 of 2019)*

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the 1st Respondent herein to give opportunity the Petitioner to produce the priority Certificate dated 15.02.2019 having Ref.No.Na.Ka.No.A1/5529/2016 issued by the Sub Collector, Tirupathur in form prescribed under G.O.Ms.No.188 (Personnel and Administrative Reforms) Department dated 28.12.1976.



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For Petitioner : Ms.Apoorva
for Mr.M.Ravi
(in both Petitions)

For Respondents : Mr.K.Rajkumar (for R1 & R2)
Standing counsel
(in both Petitions)

Mr.T.M.Rajangam (for R3)
Government Advocate
(in both Petitions)

COMMON ORDER

W.P.No.5430 of 2019 has been filed for issuance of Writ of Declaration declaring that the rejection of the priority certificate issued by the Sub Collector, Tirupathur, Vellore District having Ref.No.Na.Ka.No.A1/5529/2016 dated 01.03.2017 by the 2nd Respondent was arbitrary and consequently direct the 1st Respondent to consider the Petitioner for the post of Technical Assistant/Electrical under the priority category belonging to “family member of Land Acquired by Government” based on the 22.45 marks out of 100 secured by the Petitioner in the written exam conducted by the 1st Respondent in April 2017 pursuant to Notification No.1 of 2016 dated 28.02.2016 issued by the 1st Respondent calling for application for the post of Technical Assistant (Electrical).



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2.W.P.No.5441 of 2019 has been filed for issuance of Writ of Mandamus directing the Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the 1st Respondent herein to give opportunity to the Petitioner to produce the priority Certificate dated 15.02.2019 having Ref.No.Na.Ka.No.A1/5529/2016 issued by the Sub Collector, Tirupathur in the prescribed form under G.O.Ms.No.188 (Personnel and Administrative Reforms) Department dated 28.12.1976.

3(a).The case of the Petitioner is that in March 1999, the Petitioner passed 10th Standard from Ramakrishna Higher Secondary School, Tirupathur and in March 2001, he passed 12th standard in the same school. In April 2007 he obtained Diploma in DEEE (Electrical and Electronic Engineering) from Tirupathur Polytechnic College. In November 2010, he obtained Engineering degree in ECE (Electronic & Communication Engineering) from Nandanam College, Tirupathur. In November 2013, he obtained M.E. degree from Pavai Engineering College, Namakkal.

3(b).On 28.02.2016, Notification No.1 of 2016 dated 28.02.2016 was issued by the 1st Respondent calling for application from eligible candidates for 500 posts of Technical Assistant/Electrical. The Petitioner with Registration



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No.1714220277 applied for the post of Technical Assistant/Electrical based on his diploma certificate in Electrical and Electronic Engineering under priority quota as he was hailing from a family, whose land was acquired by the Government. He belongs to MBC category. On 28.08.2016 the Petitioner wrote the written exam and secured 22.45 marks out of 100. For priority category the cut off mark was fixed as minus 7 marks. On 07.08.2017 the Petitioner's father Kanagesan passed away. On 27.07.1979, father of the Petitioner had obtained priority Certificate for Land Acquisition.

3(c).The Petitioner attended interview on 14.02.2019, in the Interview, the officer of TANGEDCO asked the Petitioner to produce priority category certificate. He produced the priority certificate issued by the Sub Collector, Tirupathur, Vellore District having Ref. No.Na.Ka.No.A1/5529/2016, dated 01.03.2017 issued in the name of his father viz., Kanagesan. But he was asked to produce the priority certificate as per G.O.Ms.No.188 (Personnel and Administrative Reforms Department) dated 28.12.1976. The Petitioner was not able to produce the priority certificate in the prescribed form in G.O.Ms.No.188, dated 28.12.1976. The officer of the 1st Respondent refused to give an acknowledgment that the Petitioner has attended the interview on 14.02.2019 and rejected his application for want of priority certificate in the



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prescribed form.

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3(d).The Petitioner managed to get priority certificate as per GO Ms.No. 188, dated 28.12.1976 on 15.02.2019 about 12.30 pm. The Petitioner got the signature of Tirupathur Sub Collector at 4.30 pm on 15.02.2019. The Petitioner reached Anna University where interview was conducted only at 7.30 pm on 15.02.2019 when the office was closed.

3(e).According to the Petitioner, he was not able to get the priority certificate in the prescribed form, since the officer refused to give reasonable time to produce the certificate. The Officer did not give reason in writing for rejection of the Petitioner's application or give proof that the Petitioner attended the interview. Hence this Petition.

4(a).TANGEDCO/Respondents 1 & 2 filed counter affidavit, in which it is stated that during 2015, orders have been issued in (Per.) (FB) TANGEDCO Proceedings No. 10 dated 10.12.2015 for filling up the vacancies of various posts including 500 posts of Technical Assistant/Electrical and 25 posts of Technical Assistant/ Mechanical by Direct Recruitment. The selection was made based on the marks obtained in the Competitive Written examination



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(85%), Diploma academic marks (10%) and interview (5%) and as per the

Communal roster. Based on the proceedings, Notification No.1/2016, dated 28.02.2016 was issued by inviting applications from the eligible candidates from the open market and also from the Apprenticeship candidates through online for appearing in the competitive written examination for the post of Technical Assistant/Electrical and Technical Assistant/Mechanical and the candidates sponsored by the Employment Exchange were informed by letter to apply for the examination through online. Further written examination was conducted on 28.08.2016, in which a totally 48,368 candidates (Electrical - 40,462 and Mechanical - 7,906) have appeared for the written examination and marks have been published on 08.04.2017. Based on the Competitive written examination marks and as per rule of reservation, the candidates, who are eligible for the interview were called for to attend the interview at the ratio of 1:5 and the cut-off marks for appearing in the interview were published on 13.04.2017.

4(b).It was further stated that Viva-voce Interview for the said post was not conducted for more than three years due to W.P.No.13055 2017 and W.P.No.10374 of 2016 were pending before this Court. Mr.M.D.Chandrasekar and 3 others have filed the Writ Petition No.28082 of 2017 with the prayer to



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conduct the interview for the post of Technical Assistant/Electrical by fixing an early date before this Court and this Court passed the orders on 26.10.2018.

Against the order, the Petitioners had filed the W.A. No. 2485 of 2018, and the Writ Appeal was heard along with the W.P.Nos.10374 of 2016 and 13055 of 2017 and finally ordered on 30.01.2019 as follows:

9. In the above circumstances, we direct TANGEDCO, the first respondent herein, to conduct interview, for the eligible candidates, as per the service regulations and complete the exercise, as stated supra, within a period of two weeks, from today. TANGEDCO is further directed not to publish the results and the same should be submitted before this Court, in a sealed cover, on the next hearing date.

10. posted on 18.02.2019."

As per the above order certificate verification and interview was conducted at Anna University campus for 500 posts of Technical Assistant/Electrical and 25 posts of Technical Assistant/Mechanical from 11.02.2019 to 15.02.2019. As per the orders already issued in Board Proceedings dated 10.12.2015, the eligible candidates (short listed candidates) for certificate verification and interview were informed through mail/SMS/Registered post for attending certificate verification and interview for the above said posts.



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4(c).It was further stated that the Petitioner in these Writ Petitions secured 22.45 marks in the written examination, whereas the cut off marks for the post of Technical Assistant/Electrical in respect of MBC/DC (priority) is (-) 7.68. Hence, the petitioner was called for the certificate verification and interview purely on the basis of his claim under priority (Land acquisition) Quota. However, on verification of the certificate, the petitioner produced the Priority Certificate dated 01.03.2017 having Ref.No.Na.Ka.No.A1/5529/2016 issued by the Sub Collector, Tirupathur which was not in a prescribed form as per the G.O.Ms.No.188, P&AR Department, dated 28.12.1976. In the priority certificate the beneficiary name has been mentioned as Mr.Kanagesan , who is the father of the Petitioner, instead of the Petitioner Mr.K.Mayilazhagan. Hence the said priority certificate refused by the TANGEDCO officials on 14.02.2019. Subsequently, the petitioner tried to submit another priority certificate dated 15.02.2019 having Ref. No.Na.Ka.No.A1/5529/2016 the same was also rejected because in the Notification No.1/2016, dated 28.02.2016, itself clear instructions were given to candidates for the certificates they claim as follows:

Para 5 (xii) "The original certificate for any claim relating to the selection (not related to candidature or/and claims made in the application) should be produced when called for. Any claim



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received thereafter will receive no attention.

Para 5 (xiv) Application containing wrong claims relating to other basic qualifications/Eligibility age/category of reservation/ education qualification will be liable for rejection."

4(d).It is further stated that the State Government in its G.O.Ms.No.188, P&AR Department, dated 28.12.1976 providing guidelines for priority, wherein among other priority in the said order, in respect of Land Losers Priority it is stated as follows:

"Members of the family (including members of scheduled Caste/Scheduled Tribe) whose lands have been acquired for Government Purposes as well as for the projects of the Public Sector undertakings Subject to the condition that preference should be given to those who are dependent for their livelihood primarily or wholly on the lands acquired and from among them to members of the Scheduled Castes and Scheduled Tribes who may be eligible for employment."

and prayed to reject the case of the Petitioner and dismiss these Writ Petitions.

5.Heard Ms.Apoorva, learned counsel for the Petitioner and Mr.K.Rajkumar, learned Standing counsel for Respondents 1 & 2 and Mr.T.M.Rajangam, learned Government Advocate for the third Respondent.

6.This is not the case of the Respondents/TANGEDCO that the Petitioner did not even produce any of the certificate to prove the priority category, in



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fact, he has produced the certificate in the name of his father, whose lands were acquired. Eventhough the Petitioner managed to get the certificate in the prescribed form, he was not able to produce the same, before the authority concerned. In view of the same, the Petitioner lost his opportunity of employment in the said selection. If the said certificate was rejected by the authority, concerned, and some time was granted to the Petitioner to produce the certificate in the prescribed form, the Petitioner would not have been suffered. Hence, I am inclined to give an opportunity to the Petitioner. The age of the Petitioner is now 39 years and only due to the Respondents'/TANGEDCO's in action and wrong rejection, the Petitioner has been made to run from pillar to post.

7.As per their own counter of the Respondents/TANGEDCO, based on G.O.Ms.No.188 (Personnel and Administrative Reforms) Department dated 28.12.1976, the members of the family, whose lands are acquired, are eligible for consideration under priority quota. When that being the case, the Petitioner's case to be considered and proper orders to be passed by the authority, considering him for any other vacancies, within a period of eight weeks from the date of receipt of a copy of this order.



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8.The Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO), the 1st Respondent herein is directed to give an opportunity to the Petitioner to produce the priority Certificate dated 15.02.2019 having Ref.No.Na.Ka.No.A1/5529/2016 issued by the Sub Collector, Tirupathur in form prescribed under G.O.Ms.No.188 (Personnel and Administrative Reforms) Department dated 28.12.1976.

9.The 1st Respondent is directed to consider the Petitioner for the post of Technical Assistant/Electrical or any other vacancies under the priority category belonging to “family member of Land Acquired by Government” based on the 22.45 marks out of 100 secured by the Petitioner in the written exam conducted by the 1st Respondent in April 2017 pursuant to Notification No.1 of 2016 dated 28.02.2016 issued by the 1st Respondent calling for application for the post of Technical Assistant (Electrical), within a period of eight weeks from the date of receipt of a copy of this order.

10.With the above direction, these Writ Petitions are allowed. Consequently connected Miscellaneous Petition is closed. No costs.

06.11.2023



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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order
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To

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Tamil Nadu Generation and Distribution
Corporation Limited
No.144, Anna Salai
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V.BHAVANI SUBBAROYAN, J.

sai

W.P. Nos.5430 & 5441 of 2019
and
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