



WEB COPY



W.P.No.5843 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

**THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA
PRASAD**

W.P.No.5843 of 2020
and
W.M.P.No.6850 of 2020

A.Sujitha

Petitioner

Vs.

1. The Chairman - Cum- Managing Director,
Tamil Nadu Electricity Board,
N.P.K.R.R. Maaligai,
Old No.800, New No.144,
Anna Salai,
Chennai - 600 002.
2. The Chief Engineer (Personnel),
TANGEDCO,
Old N.800, New No.144,
Anna Salai,
Chennai 600 002.

Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a writ of declaration, declaring the action of the second respondent in not considering the petitioner for the appointment to the post of Assistant Engineer (Electrical) under the member of family whose lands are acquired by the Government priority quota as null and void and thereby direct the second respondent herein to select and



W.P.No.5843 of 2020

appoint the petitioner with Registration No.201601285 to the post of Assistant Engineer (Electrical) pursuant to the notification No.01/2018 dated 14.02.2018 in the existing vacancy with all monetary and service benefits.

For petitioner : Mr.A.R.Suresh
For respondents : Mr.P.Rajkumar
Standing Counsel

ORDER

This writ petition has been filed challenging the denial of her appointment as Assistant Engineer (Electrical) with the second respondent, without considering her priority certificate showing the lands acquired by the Government and for a direction to the second respondent to appoint her as Assistant Engineer (Electrical) in the existing vacancy.

2. The case of the petitioner is as follows:

2.1. The petitioner completed her SSLC in the year 1996, HSC in the year 1998 and B.E.(Electrical and Electronics) in April 2002. She also completed M.E. (Power Management) in 2014 (Part time) and she belongs to Hindu Piramalai Kallar Community which is notified as Denotified Community *vide* Government Order in G.O.Ms.No.1567, Social Welfare Department 30.07.1985 at Sl.No.45.



2.2. The second respondent, *vide* Notification No.01/2015 dated 28.12.2015, invited applications through online mode, for direct recruitment to fill up 300 vacancies in the post of Assistant Engineer (Electrical) apportioning:

- (a) Electrical and Electronics Engineering - 91% (273)
- (b) Electrical and Communications/Instrumentation Engineering-7% (21)
- (c) Computer Science /Information Technology Engineering- 2% (6)

apart from earmarking 25 vacancies and 50 vacancies in the post of Assistant Engineer (Mechanical) and (Civil) respectively.

2.3. The said notification contained distribution of vacancies, following the rule of reservation, both horizontal and vertical. In Sl.No.4 of the said notification, age and educational qualification as on 28.12.2015, have been prescribed for SC,SCA,ST,MBC/DC,BCO,BCM and destitute widows of all castes. The minimum age is fixed as 18 years, and the maximum age is that they should not have completed 30 years.

2.4. The procedure for selection consists of two successive stages, *viz.*,written examination in OMR format and interview, and the



marks obtained in the said competitive examination should be worked out for 85 marks and 15 marks respectively.

2.5. As per the said notification, the candidates are required to upload the relevant scanned copies, viz., Educational qualifications, Community Certificate, Priority Certificate, wherever applicable, Differently-abled Certificate, if any, and Persons Studied in Tamil Medium (PSTM) if applicable in PDF formats. Priority Certificate can be classified into nine categories including the one of the member's of the family whose lands were acquired by the Government.

2.6. The last date for submission of application was 11.01.2016, and the written examination was fixed on 31.01.2016. The petitioner was duly qualified in all aspects for the post of Assistant Engineer (Electrical) with the required certificates. It is pertinent to note that her husband belongs to BC Community and the petitioner falls under one of the priority categories mentioned in the notification, viz., intercaste marriage apart from another priority, viz., lands acquired by the Government, since their lands to an extent of 0.415 hectare in survey No. 1314/2B in Melakoodalur village, Uthamapalayam Taluk had been



W.P.No.5843 of 2020

acquired from her father through private settlement No.55315/2006 dated 26.06.2006 for which certificate dated 18.05.2010 was issued by the Revenue Divisional Officer, Uthamapalayam.

2.7. The petitioner got qualified in the written examination by securing 20.33 out of 100 marks and was called for *viva voce* on 13.07.2017, *vide* proceedings of the second respondent dated 02.07.2017. She was permitted to attend the interview but her candidature was not accepted on the ground that the priority under intercaste marriage has not been certified by the competent authority with seal. The petitioner explained the committee that she also belongs to another priority class, *viz.*, land acquisition priority and since the online application format contained only one column to mention, the priority she was not able to upload the same (land acquisition). But, the authorities did not consider the said submission and she was not selected.

2.8. The second respondent had again issued a notification in Notification No.01.2018, dated 14.02.2018, inviting applications through online mode for direct recruitment to fill up 300 vacancies for the post of



W.P.No.5843 of 2020

Assistant Engineer (Electrical) apportioning:

- WEB COPY
- (a) Electrical and Electronics Engineering - 91% (273)
 - (b) Electrical and Communications/Instrumentation Engineering-7% (21)
 - (c) Computer Science /Information Technology Engineering-2% (6)
- apart from earmarking 25 vacancies in the post of Assistant Engineer (Civil) respectively.

2.9. Further, for the above said notification, the distribution of vacancies also contained priority and non priority categories. The minimum age was fixed as 18 years as on 01.07.2017, and there is no upper age limit for SC, SCA, ST, MBC/DC, BCO, BCM, and destitute widows of all castes and for others, the minimum age is 18 years and maximum age is, that they should not have completed 30 years. This time, the procedure for selection was slightly modified to the effect that instead of written examination followed by *viva voce*, *viva voce* was dispensed with and the candidates were called only for certificate verification in the ratio of 1:5 as per the rule of reservation based on the marks obtained in the written examination.



2.10. The petitioner applied for the said post with all the required credentials and also the priority certificate issued by the Government for having acquired her lands. The petitioner was qualified in the written examination by securing 30.6667 out of 100 marks and was called for certificate verification on 13.02.2019 *vide* letter dated 07.02.2019 issued by the second respondent. During the certificate verification, though the petitioner had submitted a priority certificate issued by the Tahsildar, Uthamapalayam Taluk, specifically mentioning that the certificate was issued for the purpose of getting priority or preference in getting Government job, for having parted their land to an extent of 0.415 hectares as early as in the year 2006, *vide* certificate dated 01.03.2017, it was rejected by the officials attached to the second respondent, on a hyper technical ground. They stated that the certificate contained only the name of her father and not the name of the other family members and she was asked to submit a fresh certificate containing the names of other family members. The petitioner submitted a fresh certificate to the officials. She was also informed by the officials that the selection list would be published based on her new certificate submitted to the officials attached to the second respondent.



WEB COPY 2.11. But, when the result was published, it was found that she was not selected, and instead, at Sl.No.143 for turn 28 MBC/DC(P), a candidate named M.Arun Kumar, who had secured lesser mark i.e., 29.33 had been selected under the same priority category. When she approached the second respondent, the officials attached to the second respondent stated that, as she had passed the written examination twice, since the same format and same syllabi are followed, it would not be difficult for her to compete and succeed in the next recruitment.

2.12. Further, the second respondent had issued notification *vide* Notification No.2/2020 dated 08.01.2020 calling for 400 vacancies. But, the age criterion for MBC/DC, BCO, BCM was fixed as 32 years as on 01.07.2019 which has made the petitioner ineligible to apply for the post. There was no delay or laches on the part of the petitioner but for the introduction of the upper age limit.

2.13. Aggrieved by the same, the petitioner has come forward with the present writ petition seeking the relief stated in the opening



paragraph.

WEB COPY 3. The learned counsel for the petitioner drew the attention of this Court, to the Government Order in G.O.Ms.No.29, (Energy (B2) Department), dated 12.04.2023 wherein recruitment to 200 posts of Technical Assistant (Electrical) in Tamil Nadu Generation and Distribution Corporation Limited through the Tamil Nadu Public Service Commission by direct recruitment was permitted and orders were issued.

4. The learned counsel for the petitioner, as per the direction of this Court, filed an affidavit dated 08.03.2021, from one A.Arun Vijay and A.Lalitha and the relevant portion of which reads thus:

“4.I further submit that, I have not claimed any priority under the above said priority scheme for Central or State Governments nor I will hereafter claim the same benefit in future and as such I have no objection for providing employment to my sister A.Sujitha under the said category.”

5. The respondents filed a counter affidavit dated 22.03.2021 and the relevant portion of the same is extracted below:

"9.



WEB COPY



W.P.No.5843 of 2020

The petitioner belonging to MBC category has applied for the post under priority quota 'members of family whose lands were acquired by the Government'. The petitioner has also attended the written examination and scored 30.67 marks out of 100. The cut off marks for the post of Assistant Engineer/Electrical for MBC under priority quota in General category was 14.67 and in MBC (W) Non- Priority category was 27.33 marks. As the petitioner scored higher marks she was called for certificate verification. The petitioner did not produce the necessary certificate for falling under the priority quota members of family whose lands were acquired by the Government at the time of verification. However since she scored more marks than the last individual called for certificate verification in MBC (W) Non - priority category she was not rejected from certificate verification and her other certificates were examined. However, she did not come under the zone of selection as the last candidate selected under MBC (W) Non- Priority category had more marks than her i.e., 38.00 marks.

10. I humbly submit that with regard to the averment of the petitioner at para 10 of affidavit, the petitioner was called to attend the 13.02.2019. The petitioner has stated that she had attended the verification and furnished the certificate of Thasildar dated 01.03.2017 that 0.41.5 hectare land has been given for the Government for canal purposes from Thiru. P.Arasu and this certificate is issued for getting priority in appointments for recruitments in Government related sectors. It is to be clearly noted that the certificate was issued to Thiru P.Arasu and not to the petitioner A.Sujitha. The utility of the certificate by Thiru P.Arasu for appointments or by any of his family members could not be ascertained by the said certificate. It was also not mentioned in the certificate, to whom the certificate is issued among the



WEB COPY



W.P.No.5843 of 2020

legal heirs and whether any other members of his family have availed the said benefit. The statement of the petitioner that it was a hyper technical objection is totally false and it is well evident from the next few lines of the affidavit of the petitioner that she has produced a fresh certificate which states that there were three legal heirs to Thiru P.Arasu, Viz., A.Arun vijay,A.Lalitha & A.Sujitha and that the certificate given to A.Sujitha for getting priority under the quota has not been given to any other individuals The petitioner herself has submitted that she had obtained the certificate after the verification date. It is to be noted that TANGEDCO has clearly notified in the Notification under important instructions 13(f) that 'the certificate should be submitted when called for certificate verification by the TANGEDCO. If on verification at any time before or after the written examination, it is found that they do not fulfil any of the eligibility conditions; their candidature for the examination will be cancelled by the TANGEDCO.'

6. Heard both sides and perused the materials available on record.

7. The learned counsel for the petitioner placed reliance on certain judgments and orders passed by this Court, the relevant portions of which are extracted hereunder:

(i) A judgment of a Single Bench of this Court in C.Stella Mary vs Tamil Nadu Public Service Commission, [(2009) 6 MLJ 1211 dated 12.08.2009]:



WEB COPY



W.P.No.5843 of 2020

“16. Admittedly, long before the written examination, the petitioner submitted a copy of the destitute widow certificate. Therefore, having regard to the very object of reservation made for destitute widows, and having regard to the ratio laid down by the Hon’ble Supreme Court, in my considered opinion, in the case on hand, the reason stated in the impugned order for rejecting the claim of the petitioner for having considered under the reserved quota for destitute widows is not at all sustainable and therefore, the same is liable to be quashed.

17. In view of the above, the writ petition is allowed, the impugned order is set aside and the respondents are directed to consider the petitioner’s claim under the destitute widow quota and issue further orders strictly in accordance with law. In any event, the said exercise shall be completed within four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to submit a copy of this order to the Tamil Nadu Public Service Commission directly. No costs. Consequently, connected M.P.Nos. 1 to 3 are closed.”

(ii) Order dated 16.02.2010 passed by a Single Bench of this Court in (W.P.No.23394 of 2009):

"In fact of the present case, the petitioner has produced the community certificate at the first earliest opportunity available to her after she was furnished with the same, the relevant dates being, the community certificate was issued on 22.09.2008, the provision list of the selected candidates was published on 08.11.2008 and the petitioner was called upon to appear for the certificate verification on 04.12.20058 and on that date, she had produced the community certificate. Therefore, the petitioner is entitled to succeed in the writ petition and accordingly, there will be a direction to the respondents to consider and select the petitioner in the post of typist



WEB COPY



W.P.No.5843 of 2020

based on her provisional selection as published in the provisional selection list dated 08.11.2008 by treating her, as a backward community candidate and issue appropriate posting orders within a period of two weeks from the date of receipt of a copy of this Court.”

(iii) Order dated 21.01.2021 passed by a Division Bench of this Court in (W.A.(MD) No.381 of 2010 and M.P.(MD) No.1 of 2012):

“7. When there is a specific date given for the certificate verification, a candidate is bound to produce the same on the date fixed, failing which, he or she will not be entitled for the marks for the same, even if they are produced at a later point of time. But, here is a peculiar case, where, it is not the fault of the candidate, but it is the College authorities which had refused to issue such certificates, though he had put in 10 years of experience, on a contract basis. The respondent/writ petitioner also had after having exhausted all these efforts, moved this Court seeking a direction to the said authorities to get the certificates issued. The respondent/writ petitioner received the certificates only after the date fixed for certificate verification, however, before the date of interview and it is also not the case of the appellant teachers Recruitment Board that the respondent / writ petitioner had produced the certificates after the interview or even the selection process was over. The delay in production was only due to the above mentioned reasons. Therefore, considering the same, this Court had directed the authorities to award the marks for the certificates and consider the case of the petitioner, if he is within the zone of consideration. The learned Special Government Pleader also stated that if the marks were awarded, the respondent/writ petitioner would have come within the zone of consideration and would have been appointed as Lecturer. Merely because of the pendency of the Writ Appeal, the career prospectus of the respondent/writ petitioner was doomed. The



WEB COPY



W.P.No.5843 of 2020

respondent/writ petitioner must be above 45 years as on date. It is also known, he is otherwise employed as a Lecturer anywhere else.”

8. The petitioner cannot be faulted with regard to the documents verified, pursuant to the second notification No. 01/2018 dated 14.02.2018. **As directed by the second respondent, the petitioner had produced a fresh certificate issued by the Tashildar, Uthamapalayam Taluk dated 13.02.2019 and the same was submitted to the second respondent's office well in advance before the publication of the result.** Despite this, the petitioner was not selected and she was orally informed that she had cleared the written examinations twice and it would not be difficult for her to pass the same for the third time since the format and the syllabi are the same. **This act of the second respondent is unreasonable and this is a clear case of discrimination and is in violation of Article 14 of the Constitution of India, for the reason that one M.Arun Kumar who had secured lesser marks than the petitioner was selected under the same priority category i.e., lands acquired by the Government and in the third notification No.2/2020 dated 08.01.2020, the upper age limit for MBC/DC, BCO, BCM was 32 years as on 01.07.2019, on**



account of which, the petitioner could not apply as she had crossed the upper age limit not only for this recruitment but even for any other recruitment since she is aged 41 years. In other words, in view of the attitude of the second respondent, the petitioner has been deprived of the opportunity of entering into Government service thereby making her survival difficult.

9. In view of the above discussion and the ratio laid down by this Court in the above mentioned cases relied on by the learned counsel for the petitioner, this Court is of the considered view that the petitioner has to be considered for appointment to the post of Assistant Engineer (Electrical) under the priority category of lands acquired by the Government.

In the result, this writ petition stands allowed and the second respondent is directed to appoint the petitioner, bearing Registration No.201601285, to the post of Assistant Engineer (Electrical) pursuant to the Notification No.1/2018 dated 14.02.2018 in the existing vacancy in Tamil Nadu Generation and Distribution Corporation Limited *vide*



W.P.No.5843 of 2020

G.O.Ms.No.29 (Energy (B2) Department), dated 12.04.2023, within a

period of eight weeks from the date of receipt of a copy of this order. No

costs. Consequently, connected writ miscellaneous petition is closed.

29.09.2023

vca

Index : Yes/No

Speaking Order : Yes/No

To

1. The Chairman - Cum- Managing Director,
Tamil Nadu Electricity Board,
N.P.K.R.R. Maaligai,
Old No.800, New No.144,
Anna Salai,
Chennai - 600 002.
2. The Chief Engineer (Personnel),
TANGEDCO,
Old N.800, New No.144,
Anna Salai,
Chennai 600 002.



WEB COPY



W.P.No.5843 of 2020

J.SATHYA NARAYANA PRASAD,J.

vca

W.P.No.5843 of 2020



WEB COPY



W.P.No.5843 of 2020

29.09.2023