



Cont.P.No.891 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

Contempt Petition No.891 of 2020

J.Sathish
No.4/133, 3rd Main Road, Viduthalai Nagar,
S.Kolathur, Chennai - 600 129. ... Petitioner

Vs.

Mr.D.Sekar, M.Tech,
The Member Secretary,
Tamil Nadu Pollution Control Board,
No.76, Mount Salai, Guindy, Chennai - 600 032. ... Respondent

Contempt Petition is filed under Section 11 of the Contempt of Court Act, 1971 to punish the respondent for wilful disobedience of the order dated 06.11.2019 made in W.A.No.1541 of 2019.

For petitioner : Mrs.A.L.Gandhimathi, Senior Counsel
For Mr.AR.Karthik Lakshmanan

For respondents : M/s.S.Silambanan,
Additional Advocate General
For M/s.Vijayakumari Natarajan
(For TNPCB)

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

This contempt petition is filed for the alleged disobedience of the order dated 06.11.2019 passed by this court in W.A.No.1541 of 2019.



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2. Precisely stated facts of the case are as follows:

2.1. During the year 2012, the respondent herein had called for the list of eligible candidates from the employment exchange to fill up the vacant posts of Assistant Engineer in the Tamil Nadu Pollution Control Board. The educational qualification prescribed for the said post, is either B.E. (Civil Engineering) or B.Tech (Chemical Engineering) followed by post graduate degree in Environmental Engineering or M.Tech in Chemical Engineering. Since the petitioner possessed the degrees of B.Tech (Chemical Engineering) and M.E (Environmental Management), he was asked to appear in the written examination held on 15.04.2012. Upon successful completion of the same, he was called for interview held on 28.05.2012. Thereafter, he attended the certificate verification, during the course of which, he was sought to clarify, whether M.E. Environmental Engineering is equivalent to M.E. Environmental Management. Immediately, he applied for equivalence certificate and *vide* G.O.(Ms)No.190, Higher Education (J1) Department dated 18.11.2014, it was clarified that pursuant to the 46th Equivalence Committee meeting held on 29.01.2014, the M.E. Environmental Management awarded by Anna University is equivalent to M.E. Environmental Engineering. Upon receipt of the same, the petitioner made a representation dated 20.11.2014 enclosing a copy of the said G.O. to the respondent and requested to consider his candidature for appointment to the post in question.



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2.2. Finding no response on the above representation, the petitioner preferred WP.No.33124 of 2014, in which, it was stated on the side of the respondent that at the time of notification, the petitioner did not acquire the requisite qualification and G.O.Ms.No.190 dated 18.11.2014 issued by the Government stating that the degree obtained by the petitioner is equivalent to the qualification prescribed, does not give retrospective effect. Taking note of the same, the writ court by order dated 13.06.2016, disposed of the writ petition, by directing the respondent to give some preference to the petitioner atleast in the next selection process. Challenging the same, the petitioner preferred WA.No.98 of 2017, which was disposed of on 05.06.2017, with a direction to the respondent to consider the case of the petitioner for appointment to the said post, preferably in the next selection process as per law.

2.3. The petitioner further stated that subsequently, notification No.1 of 2019 dated 06.03.2019, came to be issued for direct recruitment to the post of Assistant Engineer. The petitioner was fully qualified and possessed the requisite educational qualification, but his application was not considered by the respondent Board, in view of the fact that he was over aged. Hence, he preferred WP.No.10953 of 2019 on the strength of the earlier orders passed by this court. However, the said writ petition was dismissed on 10.04.2019, against which, WA.No.1541 of 2019 came to be filed, in which, by an interim order dated



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27.04.2019, the petitioner was permitted to submit his application manually to the respondent and to take part in the selection process.

2.4. In the mean while, the petitioner preferred Review application bearing no.173 of 2019 to review the judgment dated 05.06.2017 passed in WA.No.98 of 2017, stating that considering the earlier orders, this court ought to have directed the respondent to select the petitioner for the post of Assistant Engineer, without going into the question of his eligibility.

2.5. By common judgment dated 06.11.2019, both the review application and the writ appeal came to be disposed of, by setting aside the order of the learned Judge passed in WP.No.10953 of 2019. While so, it was observed that the candidature of the petitioner should not be rejected on the ground of age limit and a positive direction was issued to the respondent to consider the case of the petitioner for appointment to the said post, if he is otherwise qualified. Even thereafter, the candidature of the petitioner was not considered by the respondent and the judgment of this court dated 06.11.2019, was not complied with. Therefore, the present contempt petition came to be filed by the petitioner before this court.

3.The learned counsel for the petitioner would contend that the petitioner had cleared the examination in 2012 for the post of Assistant Engineer in the respondent Board, however he was not selected on the ground that the degree



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obtained by him, was not equivalent to the qualification prescribed for the said post. Though it was clarified by the Government by G.O.Ms.No.190, dated 18.11.2014 to the effect that the degree in M.E. (Environmental Management) awarded by the Anna University is equivalent to M.E. (Environmental Engineering), he was not considered for appointment. The writ petition and writ appeal filed by him ended with a direction to the respondent to consider the case of the petitioner for appointment to the post in question, preferably in the next selection process as per law. The learned counsel further submitted that the next selection process commenced with a notification dated 06.03.2019, in which, the petitioner was not considered, in view of the fact that he was over aged. Based on the benefit given to him in the earlier round of litigation, the petitioner preferred review application no.173 of 2019 and WA.No.1541 of 2019, wherein, by judgment dated 06.11.2019, a positive direction was given by directing the respondent to consider his case for appointment, if he is otherwise qualified, notwithstanding the fact that he has crossed the maximum age limit prescribed. However, the said direction was not complied with by the respondent, which compelled the petitioner to file this contempt petition. According to the learned counsel, in the earlier selection process, there was no delay on the part of the petitioner, but delay had occurred only on the part of the authorities in issuing the equivalence certificate and hence, a specific direction was given to the respondent to consider the case of the petitioner for appointment in the next



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selection process. In the second round of litigation, this court has directed the respondent to consider the candidature of the petitioner for appointment, if he is otherwise qualified, notwithstanding the fact that he was over aged, by judgment 06.11.2019 in Rev. Application No.173 of 2019 and WA.No.1541 of 2019. Despite the same, the petitioner was not considered for appointment, which amounts to wilful disobedience of the order of this court.

4.The learned standing counsel appearing for the respondent at the outset submitted that the Board has not committed any wilful default in complying with the order of this court dated 06.11.2019 passed in WA.No.1541 of 2019 and Review application no.173/2019. Through the counter affidavit filed by the respondent Board, it is submitted that as directed by this court *vide* order dated 08.01.2021 passed in this contempt petition, the respondent Board has reserved one post of the Assistant Engineer as vacant. The learned counsel further submitted that despite the age restrictions prescribed in the Tamil Nadu Pollution Control Board Revised Service Regulations, 2010, based on the directions issued by this court, the petitioner was granted age relaxation and was permitted to participate in the selection process, along with other qualified candidates and accordingly, he wrote the examination on 11.10.2020 and attended interview on 07.11.2020, after certificate verification. However, in view of the pendency of the writ petitions in WP.No.17657 of 2020 etc. batch challenging the very same



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recruitment process, the result of the selection was not declared immediately and was kept in a sealed cover, till the disposal of these writ petitions. Thereafter, by order dated 21.04.2022, the said writ petitions were dismissed. Pursuant to the same, the result was published, as per which, the petitioner has secured least marks than others, (i.e.) 39.02 out of 87.8 marks and hence, he is not eligible for appointment to the post in question. The learned counsel ultimately submitted that the order which is the subject matter of the contempt petition was to direct the respondent Board to consider the case of the petitioner for the post of Assistant Engineer, if he is otherwise qualified and therefore, the respondent has not committed any contempt of court. Therefore, the learned counsel sought to dismiss this contempt petition.

5. Heard both sides and perused the records.

6. It is a very unfortunate case, wherein the petitioner though armed with the orders of this court on two occasions, has not succeeded in his attempts to get appointment to the post of Assistant Engineer in the respondent Board. On earlier occasion in the year 2012, the petitioner has cleared the written examination for the post in question, however, he was not considered for appointment for want of equivalence certificate. *Vide* G.O.Ms.No.190 dated 18.11.2014, it was clarified that the degree obtained by the petitioner is



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equivalent to the educational qualification prescribed by the respondent Board, but the same did not come to aid the petitioner, as it was issued in the year 2014 and therefore, *vide* judgment dated 05.06.2017 in WA.No.98 of 2017, the respondent was directed to consider the case of the petitioner for appointment to the post in question preferably in the next selection process as per law. Thereafter, in the next selection process in the year 2019, the candidature of the petitioner was not considered, in view of the fact that he had crossed the maximum age limit of 35 years prescribed for SC/ST candidates and he again approached the writ court and by judgment dated 06.11.2019 in WA No.1541 of 2019, the respondent was directed to consider the case of the petitioner for appointment to the post in question, if he is otherwise qualified, without insisting on the age criterion. Yet, the petitioner was not considered for appointment to the post in question. Therefore, this contempt petition.

7. For the sake of ease and ready reference, the operative portion of the order dated 06.11.2019, alleging non-compliance of which, the present contempt petition came to be filed, is extracted below:

"17.In view of the principles enunciated by the Hon'ble supreme court and also taking note of the order passed by this court permitting the review petitioner to take part in the selection process and the facts and circumstances of the case, the order passed by the learned single Judge in W.P.No.10953 of 2019 dated 10.04.2019 is set aside. Making it clear that the candidature of the review petitioner shall not be rejected on the ground of age limit, a positive direction is issued to the respondent Board to consider the case of the review petitioner for appointment to the said post, if he is otherwise qualified."



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8. According to the respondent Board, without insisting on the age criterion, the respondent Board has allowed the petitioner to participate in the selection process initiated pursuant to the notification no.1/2019 for appointment to the post of Assistant Engineer, thereby complying with the first limb of the direction issued by this court in WA.No.1541 of 2019 on 06.11.2019. While so, the said recruitment process was challenged by some other candidates in WP.No.17657, 18091, 18645, 18869, 19613, 19615 of 2020 and 117, 1454, 1457, 1633, 3406, 9025, 18422 of 2021, in which, an interim order was granted on 16.03.2021, in the following terms:

"The learned counsel for the petitioners are expected to serve copy of the affidavit and typed set of papers to Mr.Karthikei Balan, learned Government Advocate in order to enable him to place before Equivalence Committee. Some of the petitioners have already served copies, those who have not served are expected to serve copy and take acknowledgment from him within two working days excluding today.

2.Pending of these writ petitions is not a bar for the respondent TNPCB to proceed with the selection process and all the selection proceeds shall be kept in a sealed cover and can await till the disposal of these writ petitions.

3.Post on 30.03.2021 along with W.P.No.19900 of 2020."

Following the aforesaid order, the respondent Board was unable to publish the result and they kept the result in a sealed cover. Thereafter, by order dated 21.04.2022, the aforesaid writ petitions came to be dismissed with a direction to the respondent to publish the selection list and proceed for issuance of necessary appointment / posting orders to the selected candidates in accordance with law, as early as possible, without any further day. Pursuant to the same, the result was published on 26.04.2022 and appointment orders were issued to the selected



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candidates and thus, there is no delay on the part of the respondent Board in publishing the result. It is further submitted that the petitioner has secured the lowest marks than other candidates (i.e.) only 39.02 out of 87.8 marks and hence, he was found to be ineligible for appointment to the post in question. Therefore, according to the learned counsel, the respondent has fully complied with the orders of this court and they have not committed any contempt. Compliance report has also been filed by the respondent Board on 13.07.2023 to that effect.

9. Concededly, pursuant to the order dated 27.04.2019 passed by this court in WA.No.1541 of 2019, the petitioner was permitted to participate in the selection process, along with other qualified candidates, without insisting on the age criterion. Accordingly, he attended the written examination on 11.10.2020 and interview on 07.11.2020. However, the result of the examination was not declared, due to the pendency of the writ petitions challenging the very same recruitment process. After disposal of those writ petitions, the result was declared, in which, the petitioner did not secure the qualified marks and therefore, his candidature was not considered for appointment to the post in question. In such circumstances, it cannot be construed that the respondent has committed contempt of this court warranting action against them. We are of the opinion that the jurisdiction in contempt shall be exercised only on a clear case having been made out, whereas, in this case, no contempt is made out.



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10. Therefore, this contempt petition stands dismissed.

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[R.M.D,J.] [M.S.Q, J.]
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Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.



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