



W.P.No.19932 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

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T.Mangalambigai

...Petitioner

-Vs-

- 1.The State of Tamil Nadu
Rep. by the Chairman,
Generation and Distribution Corporation Ltd.,
TNEB, NPKRR Maaligai,
No.144, Anna Salai,
Chennai – 2.
- 2.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution
Corporation Ltd.,
NPKRR Maaligai, No.144, Anna Salai,
Chennai – 2.
- 3.Vinayaga Mission University,
Sangagiri Main Road,
Ariyanoor, Salem – 636 308.
- 4.R.Bharath
- 5.M.Udha Shankar
- 6.A.Kingsly Berky



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7.Arockiya Doss

8.T.Saranya

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records impugned selection list dated 29.05.2019 published by the respondents 1 and 2 and quash the same in respect of the respondents 4 to 11 and consequently direct the respondents 1 and 2 to issue an appointment order to the petitioner with effect from 29.05.2019 with all benefits.

For Petitioner : Mrs.Nalini Chidambaram, Sr. Counsel
for Mrs.C.Uma

For R1 & R2 : Mr.K.Rajkumar
For R3 to R11 : No Appearance

ORDER

Heard Mrs.Nalini Chidambaram, learned Senior Counsel appearing for the petitioner and Mr.K.Rajkumar, learned counsel for the respondents 1 and 2. There is no appearance for the respondents 3 to 11.

2. In response to the notification published by the respondents/ TANGEDCO on 14.02.2018, for filling up the post of Assistant Engineer, the petitioner had applied for the same. On successful clearance of the written



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and oral tests, she was called for certificate verification. However, the petitioner's candidature was not considered for selection. Challenging the same, the present writ petition has been filed.

3. In the counter affidavit filed by the second respondent, two reasons have been assigned for rejecting the petitioner's candidature. Firstly, since the petitioner herein possesses part time Bachelor of Engineering (B.E.,) degree from Vinayaga Mission's Research Foundation and in view of the clarification issued by the University Grants Commission (UGC), such a part time course is not a recognized course and hence, she does not possess the prescribed qualification. The second reason assigned is that the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Act 14 of 2016) provides that, once a dependant of an ex-serviceman had claimed concession at the time of recruitment, he/she cannot claim the same concession once again.

4. The learned Senior Counsel appearing for the petitioner placed reliance on an earlier decision of this Court in the case of ***M.Rajasekaran***



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and others Vs. TANGEDCO passed in *W.P.No.15817 of 2019, dated*

29.07.2021 and submitted that the part time B.E., degree from Vinayaga Mission's Research Foundation, Salem is deemed to be a valid degree. She also placed reliance on another decision of this Court in the case of *J.Aravind Vs. The Chief Engineer (Personnel), TANGEDCO and others* passed in *W.P.(MD) Nos.12887 & 13092 of 2019, dated 12.09.2022* and submitted that the respondents had earlier taken a stand that the regulations applicable to the Tamil Nadu Government servants will not be applicable to TANGEDCO and in view of such a stand taken by them, they are estopped from placing reliance on the Tamil Nadu Government Servants (Conditions of Service) Act.

5. Per contra, the learned Standing Counsel appearing for the respondents 1 and 2 submitted that as per the clarification issued by the University Grants Commission (UGC), the part time B.E., degree from Vinayaga Mission's Research Foundation is not a valid degree and therefore, the petitioner is not entitled for selection. It is also his further submission that since the Tamil Nadu Government Servants (Conditions of Service) Act specifically debars the Government servant to claim concession twice, the



petitioner herein cannot claim the benefit of such a concession for the second time, since she was also appointed under the same 'dependant of ex-serviceman' category.

6. I have given careful consideration to the submissions made by the respective counsels.

7. As pointed out by the learned Senior Counsel for the petitioner, the issue, as to whether the part time B.E., degree in Vinayaga Mission's Research Foundation is a valid degree or not, has come up for consideration before this Court in ***M.Rajasekaran's case (supra)*** and this Court had held it to be a valid degree, in the following manner:-

"5. The learned counsel for the petitioners had produced a copy of the letter from the University Grants Commission, dated 03.10.2019, wherein it is stated that the norms and standards notified by AICTE for conducting the Bachelor of Engineering (part-time) programme, has been fulfilled by Vinayaga Mission's Research Foundation, Salem and has also been approved by the AICTE, which is the statutory body.



6. *In this background, the UGC had clarified that the B.E., programme conducted by Vinayaga Mission's Research Foundation, Salem, through regular mode with the approval of AICTE, is entitled to conduct such a programme. The ratification of such an approval has been extended for the year 2021-22, which is evidenced in the letter of the AICTE dated 29.06.2021, which is also produced by the petitioners before this Court.*

7. *Apart from the above, it is also pointed out by the learned counsel for the petitioners that the Government in G.O.Ms.No.39, Personnel and Administrative Reforms Department, dated 30.04.2014, had approved Vinayaga Mission's Research Foundation, Salem, Tamilnadu as an university/institute recognized by the University Grants Commission.*

8. *On appreciation of the aforesaid facts, together with the letters of the UGC, AICTE and the Government Order, it could be stated that the respondents are not factually correct in stating that Vinayaga Mission's Research Foundation is a non-recognized university/ institute and that the part-time B.E., degree course is not an approved course. While that being so, non-inclusion*



of the petitioners' names in the impugned promotional panel dated 29.05.2019, cannot be justified."

8. It is now stated that the aforesaid order passed in W.P.No.15817 of 2019, dated 29.07.2021 has been confirmed by the Hon'ble Division Bench of this Court, through a judgement passed in W.A.No.1349 of 2022, dated 11.07.2022.

9. As noted in W.P.No.15817 of 2019 (supra), the UGC, even through its proceedings dated 03.10.2019, had clarified that the part time B.E., degree obtained from Vinayaga Mission's Research Foundation is a valid one and therefore, the first ground raised by the respondents, in rejecting the petitioner's candidature, cannot be sustained.

10. Secondly, the respondents seem to state that in view of the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, the petitioner herein, who had already claimed concession as a dependant of ex-serviceman at the time of recruitment, cannot once again claim the same concession for selection through the present notification.



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11. The learned Senior Counsel had drawn attention of this Court to the decision of ***J.Aravind's case (supra)***, wherein, when a writ petition was filed by a candidate, seeking for appointment to the post of Assistant Engineer under a notification for direct recruitment, the learned Additional Advocate General, who had appeared for the TANGEDCO, had taken a specific stand that in view of the TANGEDCO's independent Service Regulations, the Act or Rules governing the Tamil Nadu Government servants would not apply to the employees of the TANGEDCO. The relevant portion of the order reads as follows:-

"5. The learned Additional Advocate General also strongly contended that the TANGEDCO has its own independent service regulations and what is applicable to the Government of Tamil Nadu Government servants would not apply to TANGEDCO employees. According to the learned Additional Advocate General, 200 points communal roster was followed and that is how the impugned appointments came to be made."

12. When TANGEDCO has already taken a stand before this Court and the same has been recorded in the order passed in ***J.Aravind's case (supra)***, they are now estopped from taking a contrary stand by stating that in view of



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the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, the petitioner cannot get a concession for the second time. In other words, the respondents are blowing hot and cold, by taking a contradictory stand before this Court. Hence, the second ground raised by the respondents also cannot be sustained.

13. Apart from these two reasons adopted by the respondents, there is no other disqualification pointed out to invalidate the petitioner's candidature. As such, the petitioner would be entitled for selection to the post of Assistant Engineer (Electrical). Since this Court is of the view that the petitioner is entitled for selection under the impugned notification, interference to the selection list may not be required. Thus, the respondents could be directed to accommodate the petitioner by issuance of an appointment order.

14. In the light of the above findings, there shall be a direction to the respondents 1 and 2 to pass appropriate appointment order and place the petitioner under the appropriate ranking in the relevant seniority, along with the candidates who were selected under the notification, for the post of Assistant Engineer (Electrical), under the notification No.01/2018, dated



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14.02.2018, within a period of four weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs.

03.02.2023

Index:Yes/No
Neutral Citation:Yes/No
Speaking order/Non-speaking order
hvk

To

- 1.The Chairman,
Generation and Distribution Corporation Ltd.,
TNEB, NPKRR Maaligai,
No.144, Anna Salai,
Chennai – 2.
- 2.The Chief Engineer Personnel,
Tamil Nadu Generation and Distribution Corporation Ltd.,
NPKRR Maaligai,
No.144, Anna Salai,
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M.S.RAMESH,J.

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