



W.P.No.27062 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.27062 of 2017
and
W.M.P.Nos.28873 & 28874 of 2017

M.Sekar

...Petitioner

Vs

- 1.The Chairman-cum-Managing Director,
TANGEDCO Ltd.,
144 Anna Salai, Chennai – 600 002.
- 2.The Secretary,
TANGEDCO Ltd.,
Secretariat Branch,
144 Anna Salai, Chennai – 600 002.
- 3.The Chief Engineer (Personnel),
TANGEDCO Ltd.,
144 Anna Salai, Chennai – 600 002.
- 4.The Superintending Engineer,
TANGEDCO/CEDC/Central,
MGR Salai, Valluvarkottam,
110/33, KV Sub Station, Chennai – 600 034.



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5.The Executive Engineer (O & M),
TANGEDCO Ltd.,
110/33, KV Cooks Road Substation,
Chennai – 600 012.

6.Mr.B.Umashankar

7.Mr.G.Kumaraiya

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the orders in letter No.75992/A11/A111/2015-1, dated 21.12.2015 issued by the 2nd respondent and consequent communication in Letter No.10254/A11/A111/2016-1 dated 19.02.2016 on the file of the second respondent (furnished to the petitioner on 23.03.2017 in Contempt Petition No.246 of 2016), quash the same and directing the 2nd respondent to select and appoint the petitioner in the post of Industrial Relations Officer, TANGEDCO Ltd, Secretariat, 144 Anna Salai, Chennai – 600 002 in pursuant to the application cum forwarding letter dated 19.05.2015 issued by the 5th respondent.

For Petitioner : Mr.R.Selvakumar

For R1 to R5 : Mr.K.Rajkumar

For R7 : Mr.Mohan, Senior Counsel
for Mr.Adithya Reddy

For R6 : No Appearance



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ORDER

Heard Mr.R.Selvakumar, learned counsel for the petitioner, Mr.Rajkumar, learned counsel for the respondents 1 to 5 and Mr.Mohan, learned Senior Counsel appearing on behalf of the seventh respondent. There is no appearance for the sixth respondent.

2. The petitioner's candidature for appointment to the post of Industrial Relations Officer was not considered on the ground that his application was belatedly received in the office of the appointing authority.

3. As per the circular dated 05.05.2015, calling for applications for appointment as Industrial Relations Officer by Internal Selection, the Head of the Departments were called upon to furnish the particulars of qualified employees, who possess the qualifications, as per the Board Proceedings in B.P. (FB) No.44, dated 27.06.1996, along with the required testimonials. In turn, the Head of the Departments were required to send their reports in complete shape on or before 23.05.2015 to the



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Secretary of the Tamil Nadu Generation and Distribution Corporation Limited (hereinafter referred to as 'the TANGEDCO').

4. It is the case of the petitioner that he had made an application on 19.05.2015 and when his candidature was not considered, he had filed a Writ Petition before this Court for such consideration in W.P.No.33727 of 2015 and by an order dated 26.10.2015, this Court had directed the Secretary of TANGEDCO to communicate the result of the selection process to the petitioner, within a period of four weeks. Since the order of this Court was not acted upon in time, he had preferred a Contempt Petition in Cont.P.No.246 of 2016, during the pendency of which, the present impugned order dated 19.02.2016 came to be passed, rejecting the petitioner's candidature on the ground that the application was not made before 20.05.2015, which is against the Circular dated 05.05.2015.

5. The learned counsel for the petitioner pointed out that he had made an application on 19.05.2015 itself, which is prior to the last date of filing of the application i.e., 20.05.2015. Along with the application, the petitioner had also enclosed a statement showing the details of his



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qualification for the said post. The application was counter signed by the Executive Engineer of Chennai Electricity Distribution Circle (hereinafter referred to as 'the CEDC') and the same was also forwarded to the Superintending Engineer of CEDC on 19.05.2015. In turn, the Head of the Departments were required to send their report on or before 23.05.2015.

6. However, the learned counsel for the respondents/TANGEDCO would submit that they had not received the petitioner's application before the cut-off date from the Head of the Departments and therefore, they have rejected his candidature.

7. The learned Senior Counsel appearing on behalf of the seventh respondent would submit that the seventh respondent possessed the best qualifications and other criterias and was considered to be the first among the appointees and since he had been serving in the post for more than eight years, his appointment should not be disturbed.



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8. The official respondents have not disputed the fact that the petitioner did make an application on 19.05.2015 itself, which is before the cut-off date. The delay seems to be on the part of the Head of the Departments who had failed to send the report to the Secretary of TANGEDCO, on or before 23.05.2015. When the delay was not on the part of the petitioner and the only reason assigned for rejection of his candidature was the non-availability of his application on the date of consideration, this Court is of the view that the petitioner's application requires re-consideration.

9. Insofar as the qualifications prescribed for appointment to the post of Industrial Relations Officer, the Board Proceedings dated 27.06.1996 prescribes the following qualification

"(iv) **Qualification:**

(a) Must possess a Degree of Master of Labour Management.

(or)

(b) A degree of any University or institution recognised by the University Grants Commission for the purpose of its grant; and



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- (c) A degree or diploma in Social Work or Social Science or Labour Relations or Social Welfare with Labour Laws or Industrial Relations as a Principal subject, from any University or Institution recognised by the University Grants Commission, for the purpose of its grant or a Diploma in Labour Laws awarded by the Indian Law Institute, New Delhi or Post Graduate Diploma in Labour Laws and Administrative Law conducted by the Madras Law College or a Degree in Law of any University or a Post-Graduate Diploma in Labour Administration awarded by the Tamil Nadu Institute of Labour Studies or a Post-Graduate/Diploma in Personnel Management, Industrial Relations and Labour Welfare awarded by the Madras and Coimbatore Productivity Councils or any other Institution recognised by the State Government, and
- (d) Adequate knowledge in TAMIL."

10. Subsequently, by way of an amendment, B.P. (FB) No.13, dated 05.03.2002 came to be introduced by amending the selection procedure by the inclusion of Internal Selection.



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11. While the seventh respondent herein, who was a successful candidature, possesses a degree in Master of Labour Management, as provided under Clause (iv)(a) of the Board Proceedings dated 27.06.1996, the petitioner also possesses a degree recognized by the University Grants Commission, along with a degree in Law, which are also the prescribed qualifications under Clause (iv)(b) and (iv)(c) of the Board Proceedings dated 27.06.1996. Thus, both the petitioner, as well as the seventh respondent, are deemed to be qualified candidates for holding the post. Neither the Board Proceedings No.44 dated 27.06.1996 nor the Board Proceedings No.13 dated 05.03.2002 or the Circular dated 05.05.2015 prescribes the mode of selection, when the candidatures of two candidates are equal. There are also no other regulations of the Board to this effect.

12. As held earlier, the case of the petitioner cannot be rejected for no fault on his part. Likewise, the seventh respondent's appointment also cannot be found fault with, since the petitioner's application was not before the Appointing Authority on the date of consideration. Thus, this Court is of the view that when there is a semblance of equal status in the



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candidatures between these two candidates, the respondents may be directed to evaluate the suitability of the candidatures between the petitioner and the seventh respondent and accordingly take a final call in the matter. Till such time a final decision is taken, the appointment already made in favour of the seventh respondent herein, who has been continuing the said post for the past eight years, need not be disturbed.

13. In the light of the above observations and findings, the impugned orders dated 21.12.2015 and 19.02.2016 are quashed. Consequently, there shall be a direction to the second respondent herein to forthwith evaluate the candidatures between the petitioner and the seventh respondent, as on the date on which the seventh respondent was appointed, and thereby pass orders, declaring the more suitable candidate between them as fit for the post, with consequential orders. Such orders shall be passed by the second respondent, after giving due opportunity to the petitioner, as well as the seventh respondent, within a period of eight weeks from the date of receipt of a copy of this order. Till such time the final orders are passed, the appointment already made to the seventh respondent herein shall not be disturbed.



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14. Accordingly, the Writ Petition stands ordered. No costs.

Consequently, connected miscellaneous petitions are closed.

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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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TANGEDCO Ltd.,
Secretariat Branch,
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M.S.RAMESH,J.

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