



WEB COPY



W.P.No.20763 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	17/11/2023
Delivered on	6/3/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.20763 of 2013

R.M.Arulsamy ... Petitioner

Vs

1. The Chairman
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO)
144 Anna Salai
Chennai 600 002.
2. The Chief Engineer (Personnel)
Tamil Nadu Generation and Distribution
Corporation Ltd (TANGEDCO)
144 Anna Salai
Chennai 600 002.
3. TNEB Engineers Sangam
rep. By its General Treasurer
793 Anna Salai
Chennai 600 002.
4. Tamil Nadu Electricity Engineers Forum
rep. By its General Secretary
New No.63-C, I Floor, Pillaiyar Koil Street
Maduvankarai, Guindy
Chennai 600 032.



W.P.No.20763 of 2013

WEB COPY

5. J. Balachander

6. S. Panneer Selvam

7. S.P.V.Vinayagan

8. V. Krishnamurthy ... Respondents

(R.R.3 to 8 impleaded as per order dated
8/4/2014 by MMSJ in M.P.Nos.2 of 2013 and 1/2014)

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent in his Memorandum No.077400/2303/G55/G551/2012-1 dated 25/3/2013 and quash the same as illegal and consequently, direct the respondents to re-fix the petitioner's seniority in the post of Assistant Engineer/Electrical by placing the petitioner at the appropriate place in 2003 select list for the post of Assistant Engineer/Electrical through internal selection contained in Memo No.2158/Adm.Br/G13/G132/2003-1 dated 24/11/2003.

For petitioner

... Mr.L.Chandrakumar
for Mr.K.Sasindran



WEB COPY



W.P.No.20763 of 2013

For respondents

...

Mr.K.Rajkumar
for R.R.1 and 2

Mr.R.Sunil Kumar
for R.3

Mr.V.Ajay Khose
for R.R.4 to 8

- - - - -

ORDER

This writ petition is filed to quash the order dated 25/3/2013 passed by the second respondent in his Memorandum No.077400/2303.G55/G551/2012-1, to revise the petitioner's seniority to the post of Assistant Engineer (Electrical) by placing the petitioner at an appropriate place in 2003 selection list through internal selection contained in Memo No.2158/Adm.Br./G13/G132/2003-1 dated 24/11/2003.

2. The facts in brief are as under:-

The petitioner who was appointed as Technical Assistant (Electrical) vide, Memo No.031807/572/G81/Karu/54/200-2 dated 23/7/2002 on compassionate grounds on the death of the petitioner's father on



W.P.No.20763 of 2013

11/5/2000. He submitted his application through Superintending Engineer for considering his name for the post of Assistant Engineer (Electrical) by internal selection. The petitioner belong to Scheduled Caste. There were about 63 back log Schedule Caste vacancies in the cadre of Assistant Engineer (Electrical) on the date of Employment Notification dated 9/7/2003. 342 candidates had applied for the said post. Out of which, 36 candidates belong to Schedule Caste Community. On the date of publication of the list of selected candidates, i.e., 24/11/2003, there were 598 vacancies available. On completion of selection process, it was found that the petitioner's name was not found in the list of selected candidates.

3. As per the Notification, in order to apply for A.E (Electrical), one year of Board service is mandatory. The petitioner was not possessing the said qualification. Prior to publication of selection list, the Tamil Nadu Electricity Board Dr.Ambedkar Employees Union has submitted representations dated 25/7/2003 and 20/11/2003 to the first respondent to the effect that in so far as S.C candidates are concerned, even if they did not possess one year of Board service, they shall be considered for the post of Assistant Engineer in the internal recruitment



W.P.No.20763 of 2013

process, but the list was published without considering the name of the petitioner. However, on 26/7/1977, Board Proceeding No.985 was issued relaxing the prescribed qualifications in the service Regulations in respect of SC & ST candidates stating that in case if fully qualified candidates are not available to fill the vacancies, the candidates who are not possessing one year of experience, after passing of B.E. degree can also be considered for the recruitment.

4. The petitioner was ultimately selected as A.E (Electrical) as one among 118 persons on 8/12/2005. Though the petitioner could not be selected in 2003 selection list, he was considered for subsequent 2005 list as he has completed one year of service by then. On 27/8/2012, the petitioner has filed representation to the respondents to include his name in 2003 selection list of A.E (Electrical) and to refix his seniority. As there was no response, the petitioner has filed W.P.No.27843 of 2012 and the same was admitted and notice was ordered to the respondents. During the pendency of the writ petition, vide, order dated 25/3/2013, the second respondent has rejected the request of the petitioner basing on his representation dated 27/8/2012. Aggrieved by the same, present writ petition is filed.



W.P.No.20763 of 2013

5. The Chief Engineer (Personnel), TANGEDCO Ltd., Chennai has filed a counter affidavit, wherein it is stated that during 2005, proposals for internal selection of Assistant Engineer/Electrical have been called for. In the Notification, in para 2, it has been stated that the employees working in Regular Work Establishment and Provincial Cadres who are in possession of the said qualification are eligible for consideration for this selection and appointment as Assistant Engineer/Electrical. The selection of Assistant Engineer by internal selection was made based on the minimum regular service of one year in Board during the period of 2003 and 2005. Further, TANGEDCO had not stated that B.E in Electrical Engineering or Equivalent and practical experience in particular filed i.e., Maintenance or Erection or Construction work were eligible for internal selection to the post of Assistant Engineer/Electrical in the said call letter. Hence, B.P.Ms.No.985 dated 26/7/1988 is not applicable for the selection of Assistant Engineer by internal selection. The above said details were informed to the petitioner vide, Memo No.077400/2303/G55/G551/2012-1 dated 25/3/2013.

6. Heard Mr.L.Chandrakumar, learned counsel for the petitioner, Mr.K.Rajkumar, learned counsel for the respondents 1 and 2, Mr.R.Sunil



W.P.No.20763 of 2013

Kumar, learned counsel for the third respondent and Mr.V.Ajay Khose,

learned counsel for the respondents 4 to 8.

7. It is submitted by the learned counsel for the petitioner that since B.P.No.985 dated 26/7/1977 seeking to relax the service requirement in so far as SC & ST candidates, he should have been considered for 2003 selection and thereby sought to include the name of the petitioner in 2003 selection itself and refix the seniority.

8. Learned counsel appearing for the respondents submitted that B.P.No.985 dated 26/7/1977 are not applicable to the recruitment of 2003, as Notification does not speak about the relaxation.

9. Relying on the citation reported in AIR 2011 SC 2737 (RAJENDRA PRAAP SINGH YADAV AND OTHERS Vs. STATE OF U.P AND OTHERS, learned Standing Counsel for Board submitted that once the seniority list is published, it cannot be disturbed at the behest of person who chose not to challenge it for four years. The sanctity of the seniority list must be maintained unless there are very compelling reasons to do so in order to do substantial justice.



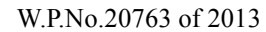
W.P.No.20763 of 2013

WEB COPY

10. Heard Mr.L.Chandrakumar, learned counsel for the petitioner, Mr.K.Rajkumar, learned counsel for the respondents 1 and 2, Mr.R.Sunil Kumar, learned counsel for the third respondent and Mr.V.Ajay Khose, learned counsel for the respondents 4 to 8. Perused the materials available on record.

11. The recruitment of the Assistant Engineers by way of internal selection would be done basing on the service Rules. The respondent TANGEDCO will be passing executive orders by way of Board Proceedings, for running the administration. In case, if any proceedings have been passed, touching to the service Rules, the said B.P will have to be incorporated as the amendment be in appropriate place in the service Rules and only then, it can be implemented.

12. The contention of the petitioner is that since B.P.No.985 dated 26/7/1977 is to relax one year service requirement, the respondents should have relaxed the same and include his name in 2003 internal selection for Executive Engineer (Electrical). But there is no record to show that the relevant service Rules are suitably modified. Therefore,



Rules, the request of the petitioner can be considered.

14. Keeping that aspect aside, another important question is that whether B.P.No.985 dated 26/7/1977 are applicable to 2003 Notification? The relevant portion of B.P.No.985, reads as under:-

“Candidates belonging to Scheduled Castes and Scheduled Tribes who do not possess the prescribed



WEB COPY



W.P.No.20763 of 2013

experience may also apply and applications of such of those candidates will be considered for selection by the Board on merit subject to relaxation of relevant rules in their favour in case fully qualified candidates are not available to fill up the vacancies reserved for them.”

15. In the Resolution which is being referred to by the petitioner itself clearly mentioned that “A paragraph on the following lines shall be included in the Notification while advertising vacancies” that means in the Notification while giving advertisement, specific clause has to be incorporated that in case if fully qualified candidates in the category of SC & ST are not available, candidates who are not having experience will be considered. Therefore, now the question to be examined is whether in 2003 Notification for which this writ petition is filed includes a rider to the effect that candidates belong to SC ST who do not possess required experience can also be permitted to apply, so that they can be considered in case if fully qualified candidates are not available.



W.P.No.20763 of 2013

16. On a perusal of the Notification, admittedly, the said clause is not found. Once, there is no Clause mentioning the relaxation of experience, the petitioner cannot contend that basing on B.P.No.985 dated 26/7/1977, his name shall be considered for the selection. On this count, the request of the petitioner can be declined.

17. Further, the petitioner has been challenging the impugned orders of rejecting his request in respect of inclusion of the petitioner's name in 2003 recruitment. The petitioner has filed a representation to include his name in 2003 selections in the year 2012 that means more than 9 years of completion of 2003 recruitment, the petitioner has filed a representation before the respondents. The petitioner though was ultimately selected and appointed as Assistant Engineer in the year 2005 should have filed a representation immediately thereafter. The petitioner therefore, has filed this application at a belated stage, after a lapse of 9 years, if the request of the petitioner is allowed, it amounts to disturbing the process of 2003 which was completed long ago. Further, the petitioner has not mentioned whether any other person who was similarly placed to that of the petitioner belong to SC /ST Community were also denied similarly to that of the petitioner.



W.P.No.20763 of 2013

18. Further, if at all the petitioner's request is accepted, seniority of the persons which was already fixed in 2003 selection will get altered and thereby, the persons whose seniority has already been fixed in the year 2003 should have been made as a party in this writ petition. In the absence of the other persons who were already selected, request of the petitioner cannot be accepted.

19. Learned counsel appearing for TANGEDCO has filed a copy of W.P.No.38117 of 2003, wherein the similarly placed persons to that of the petitioner have filed the aforesaid writ petition for similar relief, but the same was also declined by this Court, on 4/4/2013. Therefore, in view of the above, this writ petition is devoid of merits and therefore, required to be dismissed.

20. In the result, this writ petition is dismissed. No costs.

6/3/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No



WEB COPY



W.P.No.20763 of 2013

Dr.D.NAGARJUN,J

mvs.

Pre-delivery order in
W.P.No.20763 of 2013

6/3/2024