



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.4814 of 2023
and W.M.P.No.4836 of 2023

K.S.M.Ravichandran

... Petitioner

Vs.

1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation,
No.144, Anna Salai, Chennai – 600 002.

2.The Secretary,
Secretarial Branch,
Tamil Nadu Generation and Distribution Corporation,
N.P.K.R.R. No.144, Anna Salai,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned Memo (Per.) No.29239/A16/A162/2019-1 dated 01.10.2022, issued by 2nd respondent insofar as sanctioning 2 advance increments/incentive increments for P.G. degree M.E. (Power Systems) to the petitioner under Clause 5(i) with effect from the day following the last day of the P.G. degree validation



examination conducted by AICTE-UGC, quash the same and further direct the respondents 1 and 2 to sanction advance increments/ incentive increments for P.G. degree from January-2008, namely from the date on which the petitioner acquired the P.G. Degree.

For Petitioner : Mr.K.Krishnamoorthy

For Respondents : Mr.K.Rajkumar
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned memo dated 01.10.2022 issued by the 2nd respondent insofar as sanctioning two advance increments/incentive increments for the P.G. Degree to the petitioner only from June 2018 onwards.

2.Heard Mr.K.Krishnamoorthy, learned counsel appearing on behalf of the petitioner and Mr.K.Rajkumar, learned Standing Counsel appearing on behalf of the respondents.



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3.The petitioner was working as an Assistant Executive Engineer in TANGEDCO. The respondents through Board proceedings dated 04.09.1985, assured advance increments/incentive increments for the Engineers who acquired P.G. Degree. The petitioner acquired his P.G. Degree in December 2007 through Distance Education mode from Vinayaka Mission Research Foundation, Salem.

4.The validity of the degrees issued by the deemed university became a subject matter of challenge and the Apex Court held that all those candidates who wish to appear in the test conducted by the AICTE, can exercise their option and appear in the test and they can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or 31.07.2018 whichever is earlier.

5.The petitioner attended the test conducted by the AICTE and passed the eligibility test and his P.G. Degree was validated from June 2018.



6. In the light of the above development, approval was accorded to sanction advance increments for those who completed the P.G. Degree from the date of the validation examination conducted by AICTE.

7. The petitioner is aggrieved by the decision taken by TANGEDCO by confining the relief only from 2018 and whereas, the petitioner is seeking for the relief from the year 2007 onwards when he originally passed the P.G. Degree.

8. I had an occasion to deal with a similar issue in W.P.No.33033 of 2019. That was a case where the petitioners therein were seeking for designation as Assistant Engineers from the year 2009 onwards and to fit them accordingly in the seniority list. While dealing with this issue, this Court dealt with the judgement of the Apex Court and held as follows:

17. Before venturing into the issue that has been raised in the present Writ Petition, it is important to understand the nature and purport of the judgment passed by the Hon'ble Supreme Court. Since the petitioners are pitching their rights upon this judgment, this Court has to necessarily go into this issue at the threshold, before considering the claim made by the



petitioners.

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18. There is no dispute with regard to the fact that the petitioners had joined Vinayaka Mission University in the year 2005 and they have all completed B.E (Mechanical) Engineering through Distance Education Programme, in the year 2009. The degree given by this University and similarly placed deemed Universities, became questionable and the matter ultimately reached the Apex Court. The Apex Court, after considering the claims and counter claims and also keeping in mind the interest of the students, issued certain directions and the same has been extracted supra.

19. The Hon'ble Supreme Court suspended the degrees of all those students who underwent the course in those deemed Universities and completed the course. The AICTE was directed to conduct a test to all the concerned students, who underwent the course in those deemed Universities. Those students were given two chances to clear the test and if they clear the test within those two chances, all the advantages/benefits was directed to be restored to them and their degrees will stand fully revived.

20. It is true that the petitioners were not parties in the above proceedings. However, the judgment passed by the Hon'ble



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Supreme Court was in the nature of a judgment in Rem and therefore, it had a binding effect on all those students, who had undergone the course in the concerned deemed Universities. That is the reason why, the AICTE permitted the petitioners to take the test and the petitioners also cleared the same in the second chance. Pursuant to the same, the AICTE also issued a certificate for validation of the degree during December 2018. By granting such a validation, the degrees obtained by the petitioners in the year 2009 from Vinayaka Mission University stood fully revived. This is very clear from the language used by the Hon'ble Supreme Court in the above order. In the considered view of this Court, the subsequent Order passed by the Hon'ble Supreme Court in the review petition, will not have any bearing to the facts of the present case since that Order only covered those persons, who obtained a benefit on the basis of a degree granted by the deemed Universities. Admittedly, in this case the petitioners did not obtain any benefit pursuant to the degree granted to them in the year 2009.

21.The Service Regulations of TANGEDCO provides as follows:

“Junior Engineers (Mechanical) I Grade, who are holders of a diploma in Mechanical Engineering and who



have subsequently acquired a Degree in Mechanical Engineering, shall be permitted to be redesignated as Assistant Engineers (Mechanical) and appointed to the post of Assistant Engineers (Mechanical), if there are regular vacancies in the post of Assistant Engineers (Mechanical)”.

22.It is clear from the above regulation that the Junior Engineers (Mechanical), who acquire a degree in Mechanical Engineering subsequently are eligible to be redesignated as Assistant Engineers (Mechanical) and are eligible to be appointed in the said post, if there are regular vacancies.

23.In the present case, the petitioners had made representations to the 2nd respondent from the year 2009 onwards to redesignate them as Assistant Engineers (Mechanical). These representations were not considered by the respondents since the respondents were not sure about the degrees obtained by the petitioners. Subsequently, the issue reached the Hon'ble Supreme Court and therefore, there was no occasion for the respondents to consider the claim made by the petitioners. The petitioners also cannot be blamed and they cannot be found fault on the ground of delay since the entire dispute regarding the degrees obtained by them from Vinayaka Mission University, came to an end only in November 2017 and the petitioners also cleared the test



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subsequently in the year 2018 and got their degree revalidated by AICTE during December 2018. On the facts and circumstances of the case, this Court is of the considered view that the claim made by the petitioners cannot be rejected on the ground of delay.

24. The next issue that requires consideration of this Court is as to whether by fitting the petitioners in the seniority list with effect from the year 2009, the same will dislodge a settled seniority list and whether it will take away the rights/benefits already obtained by the other candidates. It is clear from the records and also the stand taken by the respondents that only in the year 2019, the process has started for calling upon the list of candidates from the year 2008 onwards, to be considered for promotion to the post of Assistant Executive Engineer. Therefore, it is not as if certain promotions have already been granted and by fitting the petitioners in the seniority list, those benefits will get reversed and will affect the rights of those parties. If that had happened, certainly this Court would have been wary in considering the claim of the petitioners. Since that situation has not arisen in the present case, the inclusion of the petitioners in the seniority list with effect from 2009 will not cause any prejudice to any of the other candidates. That apart, the petitioners are only demanding for their rightful claim and they are not asking for any concession. The judgment relied upon by



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the learned Standing Counsel appearing on behalf of the respondents, will not have any application to the facts of the present case.

25. In view of the above discussion, there shall be a direction to the 2nd respondent to redesignate the petitioners as Assistant Engineers in accordance with the Service Regulations and consider their seniority from the year 2009 onwards and fit them accordingly, in the seniority list. Appropriate Orders shall be passed in this regard within a period of four weeks from the date of receipt of copy of this order.

9. In the above case, this Court held that the order passed by the Apex Court will not have any bearing on the facts of that case, since that order will cover those persons who obtained the benefit on the basis of a degree granted by the deemed University. The petitioners therein did not obtain any benefit pursuant to the degree granted to them in the year 2009. Therefore, this Court took into consideration the service regulations and granted the relief.

10. The same issue arose for consideration in W.P.Nos.25727 and 25728 of 2022 in ***S. Balakrishnan and others v. The Chairman cum Managing Director,***



TANGEDCO, Chennai – 600 002 dated 24.01.2024. The relevant portions in the order are extracted hereunder:

5. As per the Board proceedings and Regulations of Tamilnadu Electricity Board Service, the Junior Engineers Grade-I who have acquired BE degree shall be re-designated as Assistant Engineer if there are regular vacancies in the post of Assistant Engineer(Electrical). Accordingly, re-designation can be considered to those who are holding the post of Junior Engineer Grade-I and who joined the Board based on their qualification including Diploma qualification and subsequently acquired Engineering degree through part time study alone and as per the Board proceedings No.65 dated 12.08.1985 their names shall be placed as the last person in the particular year for counting their seniority.

6. Whereas the petitioners have completed their BE degree through distance mode from Vinayaga Mission University. Therefore, they were found ineligible to get the re-designation to the post of Assistant Engineer. Immediately after completion of their degree in Bachelor of Engineering, as directed by the Hon'ble Supreme Court of India though the petitioners had cleared the Special Examinations and validated their BE degree,



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they are not eligible to be re-designated as Assistant Engineer from the date of their completion of degree. They validated their degree only in the month of June and December 2018.

7. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India in the case of Orissa Lift Irrigation Corp.Ltd. vs Rabi Sankar Patro reported in 2018 (1) SCC 468, wherein it is held as follows:

46. Having found the entire exercise of grant of ex-post-facto approval to be incorrect and illegal, the logical course in normal circumstances would have been not only to set aside such ex-post-facto approvals but also to pass consequential directions to recall all the degrees granted in pursuance thereof in respect of Courses leading to award of degrees in Engineering. However, since 2004 UGC Guidelines themselves had given liberty to the concerned Deemed to be Universities to apply for ex-post-facto approval, the matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic sessions 2001- 2005 is protected. Though we cannot wish away the fact that the concerned Deemed to be Universities flagrantly violated and entered into areas where they had no experience and started



conducting courses through distance education system illegally, the over bearing interest of the concerned students persuades us not to resort to recall of all the degrees in Engineering granted in pursuance of said ex-post-facto approval. However, the fact remains that the facilities available at the concerned Study Centres were never checked nor any inspections were conducted. It is not possible at this length of time to order any inspection. But there must be confidence and assurance about the worthiness of the concerned students. We, therefore, deem it appropriate to grant some chance to the concerned students to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who were enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended.

47. The AICTE is directed to devise within one month from the date of this judgment modalities to conduct appropriate test/tests both in written examination as well as in practicals for the concerned students admitted during the



academic sessions 2001- 2005 covering all the concerned subjects. It is entirely left to the discretion of AICTE to come out with such modalities as it may think appropriate and the tests in that behalf shall be conducted in the National Institutes of Technology in respective States wherever the students are located. The choice may be given to the students to appear at the examination which ideally should be conducted during May- June, 2018 or on such dates as AICTE may determine. Not more than two chances be given to the concerned students and if they do not pass the test/tests their degrees shall stand recalled and cancelled. If a particular student does not wish to appear in the test/tests, the entire money deposited by such student towards tuition and other charges shall be refunded to that student by the concerned Deemed to be University within a month of the exercise of such option. The students be given time till 15th of January, 2018 to exercise such option. The entire expenditure for conducting the test/tests in respect of students who wish to undergo test/tests shall be recovered from the concerned Deemed to be Universities by 31.03.2018. If they clear the test/tests within the stipulated time, all the advantages or benefits shall be restored to the concerned candidates. We make it clear at the cost of repetition that if the concerned candidates do not clear the test/tests within the time



stipulated or choose not to appear at the test/tests, their degrees in Engineering through distance education shall stand recalled and cancelled. It goes without saying that any promotion or advancement in career on the basis of such degree shall also stand withdrawn, however any monetary benefits or advantages in that behalf shall not be recovered from them.

48. As regards the students who were admitted after the ex-post-facto approval granted in favour of such Deemed to be Universities, in our view, there was no sanction whatsoever for their admission. The Policy Statements as well as warnings issued from time to time were absolutely clear. The students were admitted on the strength either provisional recognition or on the strength of interim orders passed by the High Court. We therefore, declare that in respect of students admitted after the academic sessions of 2001-2005, the degrees in Engineering awarded by the concerned Deemed to be Universities through Distance Education Mode shall stand recalled and be treated as cancelled. Any benefit which a candidate has secured as a result of such degrees in Engineering in the nature of promotion or advancement in career shall also stand recalled. However, if any monetary benefit was derived by such candidates that monetary benefit



or advantage will not be recovered by the concerned departments or employers. We, further direct that the entire amount paid by such students to the concerned Deemed to be Universities towards tuition fee and all other expenditure for such courses through distance education learning shall be returned by the concerned Deemed to be Universities to the respective students. This direction shall be complied with by the concerned Deemed to be Universities scrupulously and the amounts shall be returned by 31st of May, 2018 and an appropriate affidavit to that extent shall be filed with UGC within a week thereafter.

8. Thereafter, some of the applicants preferred clarification and modifications of direction issued by the Hon'ble Supreme Court of India. Considering the same, the Hon'ble Supreme Court of India by its order dated 22.01.2018, issued the following clarification:

"We now and who, in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct:-

a) All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018



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and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing there from till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

b) This facility is given as one-time exception so that those who have the ability and can pass the test in the first attempt itself, should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the advantages. But if they fails or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chance or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

c) We direct AICTE to conduct the test in May- June 2018 and declare the result well in time, in terms of our directions, in the judgment and this order. AICTE shall however extend the time to exercise the option to appear at the test suitably."



9. *In the contempt petitions, the Hon'ble Supreme Court of India further clarified that the candidates would certainly be eligible to such entitlements as are available in accordance with law, restoration would only be of those benefits, which they were enjoying as on the date of the judgment. In short, the intent was to restore status quo ante and not to confer any additional advantage. Admittedly, the petitioners had no valid degree until they cleared the Special Examinations thereby validated their degree i.e. till the month of June and December 2018. Though the petitioners had completed their BE degree in the year 2008, the petitioners were not re-designated as Assistant Engineer. Therefore, they were not enjoying any benefit based on such degree as on the date of the judgment passed by the Hon'ble Supreme Court of India i.e. 03.11.2017. Therefore, the request made by the petitioners were rightly rejected by the second respondent and this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petitions lack of merits. As such, the same are liable to be dismissed.*

11. The ratio decidendi in the above order will squarely apply to the facts of the present case. I'm in complete agreement with the above order passed by Hon'ble Mr. Justice G.K. Ilanthiraiyan, wherein, the learned Judge has held that the petitioners therein did not have a valid degree until they cleared the special



examination that was conducted by the AICTC. In view of the same, the learned Judge held that they will be entitled for any benefit only from the date on which the degree was validated.

12.The petitioner in this case had admittedly obtained the P.G. degree from Vinayaka Mission Research Foundation, Salem which was found to be invalid. Therefore, there is no question of giving the benefit to the petitioner from December 2007 onwards. The degree itself became valid only after the AICTE conducted the eligibility test and the validation was given in June 2018. Therefore, if at all the P.G. degree of the petitioner is to be validated, it can be validated only from June 2018.

13.The decision taken by the respondents to grant the sanction of advance increments from the day following the last date of the P.G. degree validation examination conducted by AICTC is perfectly in order and it does not require the interference of this Court.

14.In the result, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.



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05.08.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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To

- 1.The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation,
No.144, Anna Salai, Chennai – 600 002.
- 2.The Secretary,
Secretarial Branch,
Tamil Nadu Generation and Distribution Corporation,
N.P.K.R.R. No.144, Anna Salai,
Chennai.



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N. ANAND VENKATESH, J.

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