



W.P.No.3689 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 19.09.2024

ORDERS PRONOUNCED ON : 30.10.2024

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.3689 of 2018
and WMP.No.4514 of 2018

K.Krishnamurthy

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 600002.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation Ltd.,
Tamil Nadu Electricity Board,
10th Floor, NPKRR Maaligai,
144, Anna Salai,
Chennai 600002.
3. The Chief Engineer (Distribution),
Villupuram Region,
TANGEDCO/Tamil Nadu Electricity Board,
Post Box No.10,
No.10, Old Power House Road,
Villupuram 605602.

... Respondents



PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to appoint the petitioner as Field Assistant (Trainee) under the Priority Category in pursuant to the Recruitment Notification No.1/2016 dated 20.02.2016 forthwith

For Petitioner : Mr.K.Balu

For Respondents : Mr.K.Rajkumar, Standing Counsel

ORDER

The petitioner has filed this petition seeking Writ of Mandamus to direct the respondents to appoint him as Field Assistant (Trainee) under the priority quota in pursuant to the recruitment Notification No.1/2016 dated 20.02.2016 forthwith.

2. As per the petitioner, he submitted an application pursuant to the Notification No.1/2016 issued by the respondents for appearing in the competitive written examination for the post of Field Assistant (Trainee). The petitioner belongs to MBC Community and he applied under the priority category i.e., “Members of the Family whose land were acquired by the Government”. He is claiming priority under the Land Acquisition based



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on the certificate issued by the Special Tahsildar, Adi Dravidar Welfare Department, dated 29.08.2001 bearing Na.Ka.A.249/2000, which was issued as per G.O.Ms.No.188, Personal and Administrative Reforms Department, dated 28.12.1976. The petitioner participated in the written examination held on 27.08.2016 and qualified for the interview. He was called for interview by the second respondent vide letter dated 09.11.2017 at the office of the third respondent on 20.11.2017. The petitioner appeared before the Selection Committee and produced all original educational certificates and also priority category certificate issued by the Special Tahsildar, Chengam Taluk, Tiruvannamalai District. As such, it is the case of the petitioner that he is eligible to be appointed as Field Assistant (Trainee) under the priority category.

3. The learned counsel for the petitioner would submit that the petitioner is a meritorious candidate and he secured marks more than cut off i.e. 9.23 out of (-) 6.35. Despite that he was not selected and appointed as Field Assistant (Trainee) under the category of land loser priority. Accordingly, the learned counsel for the petitioner contends that the action of the respondents is arbitrary and discriminatory one and also failure to



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consider the petitioner's genuine request affects the Fundamental Rights guaranteed under Article 14 and 16 and right to life guaranteed under Article 21 of the Constitution of India and thus sought to allow the Writ Petition with a direction to the respondents to appoint the petitioner as Field Assistant (Trainee) under the priority category in pursuance of the recruitment No.1/2016.

4. On behalf of the respondents, a counter affidavit has been filed. It is averred in the counter affidavit that the petitioner's application was registered through online with Registration No.1711170668, wherein he has registered that he belongs to priority category i.e., Members of the Family whose lands were acquired by the Government. The petitioner belongs to MBC community and had obtained 9.23 out of 100 marks in the written examination. The cut off marks for attending of interview in respect of non priority candidates belonging MBC (G) is 28.49, however, based on the submission of the petitioner that he belongs to the priority category, he was called for to attend interview under the priority category. It is further averred that the petitioner appeared for the certificate verification on 20th November 2017 and submitted certificates of age, qualification and other



relevant certificates. However, he failed to produce the certificate to claim priority quota. Hence, the petitioner was not found eligible for attending the interview under the priority quota.

5. In paragraph 10 of the counter affidavit, it has been averred as follows:

“10) I respectfully submit that, clause 15 (v) of Notification No.1/2016 dated 28.02.2016 is extracted as follows:-

“V. The candidates applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the Examination. Their admission for Written EXAMINATION and interview will be purely provisional, subject to their satisfying the prescribed eligibility conditions. The certificates should be submitted when called for by the TANGEDCO. If on verification at any time before or after the written EXAMINATION and interview, it is found that they do not fulfill any of the eligibility conditions, their candidature for the examination will be cancelled by the TANGEDCO.”

Even though, the criterion for eligibility is clearly specified in the Notification, the petitioner has failed to obtain and



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produce priority certificate issued by the competent authority.

Also any claim after the certificate verification and after the interview was over will not be taken into consideration as per the above clause. Hence, without producing required priority certificate, the petitioner's claim to consider him for appointment under priority category is unacceptable.”

6. It is further averred in the counter affidavit that basing on the marks obtained in the competitive written examination, physical examination and marks obtained in ITI, NTC, selection was made as per the communal roster and selection orders to 894 candidates was issued on 29.01.2018 and they also joined duty.

7. The learned Standing Counsel appearing for the respondents would submit that as the petitioner failed to produce the certificate to claim appointment under the priority quota, Members of the Family, whose lands were acquired by the Government, the claim of the petitioner for appointment as Field Assistant (Trainee) was not considered by the respondents under the priority quota.



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8. The learned Standing Counsel further submits that the petitioner's claim was not considered under MBC (General) category also as he has not obtained eligible cut off marks. Accordingly, the learned Standing Counsel would submit that the petitioner is not entitled to any relief sought for in this writ petition and requested to dismiss the writ petition.

9. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents and carefully perused the materials available on record.

10. It is an admitted fact that pursuant to the Notification No.1 of 2016 dated 28.02.2016, the petitioner had submitted an application seeking the post of Field Assistant (Trainee). It is also an admitted fact that he possessed all eligibilities to submit application for the post of Field Assistant (Trainee). He attended written examination and secured marks more than cut off marks i.e., 9.23 out of (-) 6.35, which is eligible for consideration under the category of "Land Loser Priority".



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11. It is the contention of the petitioner that he produced the priority certificate being the land loser in the land acquisition process by the Special Tahsildar, Adi Dravidar Welfare Department, dated 29.08.2001. However, the respondents directed the petitioner to obtain latest certificate from the District Collector or from the competent District Level Officer. It is the contention of the petitioner that as directed, he obtained the priority certificate from the District Adi Dravida Welfare Officer, Thiruvannamalai vide his letter Na.Ka.K1/27398/2017, dated 27.11.2017 to substantiate his claim under the priority category and produced the same to the third respondent on 29.11.2017. But his claim was not considered and then he made a representation to the second respondent on 29.11.2017. However, there was no response from the second and third respondents thereafter. Without considering the claim of the petitioner, the respondents have finalised the selection process and published the results of the successful candidates for the posts of Field Assistant (Trainee).

12. On the other hand, it is the contention of the respondents that as the petitioner failed to produce the certificate to claim priority category as



Member of the Family whose lands were acquired by the Government, the claim of the petitioner was not considered.

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13. Along with this writ petition, the petitioner filed a copy of the certificate issued by the Special Tahsildar, Adi Dravidar Welfare Department in Na.Ka.A.249/2000 dated 29.08.2001. On perusal of the certificate, it is clear that being the legal heir of the person affected by the land acquisition, as per G.O.188, dated 28.12.1976, the priority certificate was issued in favour of the petitioner by the Special Tahsildar, Adi Dravidar Welfare Department, Chengam. It is an undisputed fact that the land to an extend of 32 cents situated at Unnamalaipalayam Village, Chengam Taluk, Tiruvannamalai District in S.No.41/3H was acquired by the State Government for the purpose of providing house sites to the Arunthathiyar Community people. Accordingly, a certificate dated 29.08.2001 was issued by the Special Tahsildar, Adi Dravidar Welfare Department, Chengam in favour of the petitioner for getting employment under the priority category.

14. The learned counsel for the petitioner also filed a letter of the Special Tahsildar, Adi Dravidar Welfare Department, Chengam in



Na.Ka.No.A/154/2016, dated 24.11.2017 addressed to the District Adi Dravidar and Tribal Welfare Office, Tiruvannamalai informing that the priority certificate issued by the then Special Tahsildar, Adi Dravidar Welfare Department, Chengam Taluk, on 29.08.2001 to the petitioner is genuine. Thereafter, the District Adi Dravidar and Tribal Welfare Office, Tiruvannamalai in Na.Ka.K1/27398/2017, dated 27.11.2017 issued a memo stating that the certificate issued to the petitioner is genuine. All the certificates were produced by the petitioner before the respondents along with a representation dated 29.11.2017, but there is no response from the second respondent.

15. On comprehensive examination of the entire facts of the case there is no dispute to the fact that the land to an extent of 32 cents belonging to the family of the petitioner was acquired by the Government and Special Tahsildar, Adi Dravidar Welfare Department, Chengam Taluk issued priority certificate on 29.08.2001 to enable the petitioner to get employment under priority category. Then the petitioner made application pursuant to the Notification issued on 28.02.2016 for the post of Field Assistant (Trainee). The petitioner definitely ought to have produced the priority certificate dated



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29.08.2001 before the concerned officer at the time of certificate verification as it was issued much earlier to the said Notification. It is the contention of the petitioner that the third respondent did not accept the priority certificate issued by the Special Tahsildar, Adi Dravidar Welfare Department dated 29.08.2001 and directed him to obtain the latest certificate from the District Collector or the competent District Level Officer.

16. No prudent person will accept the contention of the respondents that the petitioner did not submit the priority certificate dated 29.08.2001, before the Selection committee of the third respondent as it was obtained very much earlier to the Notification dated 28.02.2016. However, it appears that as per the instructions of the third respondent, the petitioner approached the office of the District Adi Dravidar and Tribal Welfare Department and obtained clarification from them vide memo dated 27.11.2017, wherein it is stated that the certificate issued by the Special Tahsildar, Adi Dravidar Welfare Department, Chengam on 29.08.2001 is genuine.

17. Under these circumstances, definitely, this Court has to come to



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the conclusion that the action of the respondents in not acting on the representation submitted by the petitioner to the second respondent on 29.11.2017 is unjust and unreasonable. In view of the illegal action of the respondents, the petitioner lost his opportunity of getting employment in the said selection. Instead of rejecting the claim of the petitioner basing on the priority certificate produced by him, which was issued by the Special Tahsildar, Adi Dravidar Welfare Department dated 29.08.2001, if the respondents have any doubt about the genuineness of the certificate, it has to be send to the concerned authorities for verification to find out the genuineness of the same. If it is done by the respondents, the petitioner would not have been suffered like this. At the time of filing of the Writ Petition, the petitioner was aged about 51 years. Due to the respondents' in action, the petitioner has been made to run from pillar to post and finally he has to approach this Court for justice.

18. As per the stand of the respondents in their counter, it is clear that based on the G.O.Ms.No.188, Personal and Administrative Reforms Department, dated 28.12.1976, the Members of the Family, whose lands were acquired are eligible for consideration under the priority quota. In the



said premise, as admittedly the petitioner land was acquired by the State Government for public purpose and the concerned authority through whom lands were acquired issued a certificate dated 29.08.2001 to the petitioner to enable him to get employment under priority category, the petitioner's claim ought to have been considered and proper orders to be passed by the respondents in proper perspective.

19. Being satisfied with the materials placed before this Court by the petitioner, this Court fully satisfied that the petitioner is entitled for appointment to the post of Field Assistant (Trainee), pursuant to the Notification No.1 of 2016, dated 28.02.2016 issued by the respondents, under the category of land loser priority, basing on the certificate issued by the Special Tahsildar, Adi Dravidar Welfare Department, Chengam in Na.Ka.A.249/2000 dated 29.08.2001, which was certified as genuine by the District Adi Dravidar and Tribal Welfare Office, Tiruvannamalai in Na.Ka.K1/27398/2017, dated 27.11.2017. Though the respondents filed counter in the month of February 2014, there is no mention about the action taken on the representation dated 29.11.2017 submitted by the petitioner to the second respondent. This itself shows the lethargic attitude of the



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respondents in considering the grievance of the petitioner. The respondents have not considered the genuine claim of the petitioner and thus, the respondents have violated the fundamental rights guaranteed to the petitioner under Article 14, 16 and 21 of the Constitution of India.

20. For the aforesaid reasons, this Court is of the considered opinion that the petitioner is entitled for consideration for appointment to the post of Field Assistant (Trainee) pursuant to the Notification No.1 of 2016 dated 28.02.2016 under the land loser priority category and the respondents unreasonably caused great and irreparable damage to the petitioner by not considering his claim for appointment though he secured more marks than the cut off fixed for land loser priority category.

21. Accordingly, the petitioner has succeeded on facts and law for interference of this Court under Article 226 of the Constitution of India to render substantial justice to him. Accordingly, this Writ Petition is allowed with the following direction:

The respondents are directed to consider the representation dated 29.11.2017 submitted by the petitioner



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and the documents/certificates enclosed to it and appoint the petitioner in the post of Field Assistant (Trainee) or any other vacancy for which he is eligible under the priority category of “Family member of land acquired by the Government” pursuant to the Notification No.1/2016 dated 28.02.2016 of the first respondent within a period of four weeks from the date of receipt of a copy of this order.

No costs.

Consequently, connected miscellaneous petition is closed.

30.10.2024

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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BATTU DEVANAND.J.,
pvs

Pre-delivery order in

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