



W.A.No.1066 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A.No.1066 of 2024

1. B.Arivazhagan
2. P.K.Rajagopalan .. Appellants

v

1. The Chairman-cum-Managing Director
The Tamil Nadu Generation and Distribution
Corporation Ltd.
No.144, Anna Salai, NPKRR Maligai
Chennai 600 002
2. The Chief Engineer (Personnel)
The Tamil Nadu Generation and Distribution
Corporation Ltd.
No.144, Anna Salai, NPKRR Maligai
Chennai 600 002

3. V.Sekar .. Respondents
(R3 given up as unnecessary party)

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 31.10.2023 passed in W.P.No.18474 of 2020.

For appellants : Mr.K.Sasindran
For R1 and R2 : Mr.K.Rajkumar
Standing Counsel



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JUDGMENT

(delivered by R. MAHADEVAN, J.)

Challenging the order dated 31.10.2023 passed by the learned Judge in W.P.No.18474 of 2020, this intra-court appeal has been filed by the writ petitioners.

2. Germane facts of the case could be succinctly stated as under:

2.1 The appellants, who were working as Foreman Grade-I in the respondent Corporation, applied for the post of Assistant Engineer (Electrical) by way of internal selection in the year 2009, as they had acquired B.Tech. (Electrical Engineering) through distance education.

2.2 Since their applications were not considered on the ground that they acquired B.Tech. (Electrical Engineering) qualification *via* distance education, they filed W.P.No.18474 of 2020 seeking a mandamus to the respondent Corporation to take note of the Certificate for Validation of Degree, issued by the All India Council of Technical Education/University Grants Commission certifying their degrees as valid and to issue appointment orders to them for the post of Assistant Engineer (Electrical) by way of internal selection



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w.e.f. 2009 selection by giving appropriate seniority and also to grant all other consequential benefits.

2.3 The learned Judge, after hearing the learned counsel for the parties, by order dated 31.10.2023, disposed of the said writ petition, on the following terms:

“5. In view of the above, it is open to the petitioner to give a fresh representation to the authorities concerned after waiting for the outcome of the review application and upon receipt of the same, the respondents shall consider the same and pass orders in accordance with the law, within a period of four weeks from the date of receipt of a copy of that representation.”

2.4 Thereagainst, the writ petitioners have preferred the instant writ appeal.

3 Heard the learned counsel appearing for the appellants and Mr.K.Rajkumar, learned Standing Counsel, who takes notice for the respondent Corporation and perused the materials placed on record.



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4 The main ground of attack made by the learned counsel for the appellants appears to be that the learned Judge ought not to have decided the writ petition based merely on the pendency of the review application, inasmuch as, the issue involved in the review application is not the same or akin to the issue involved in the instant case.

5 No doubt, as rightly argued by the learned counsel for the appellants, the order impugned passed by the learned Judge is predicated on the averment made in the counter affidavit filed by the respondent Corporation, wherein, there is a mention about the claim of similarly placed persons in W.P.No.33033 of 2019 which matter was taken on appeal in W.A. No.681 of 2020, which was allowed and the decision in which was sought to be reviewed in Rev. Appl. No.143 of 2023.

6 However, be it noted, from a perusal of paragraph 4 of the order impugned, it is manifest that in response to the averment made in the counter affidavit filed by the respondent Corporation to the effect that a similarly placed person was before this Court in W.P. No.33033 of 2019, it is only the learned counsel for the appellants who had submitted before the learned Judge that the writ appeal filed as against the order dated 06.02.2020 passed in the



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said writ petition has been allowed *vide* order dated 23.12.2021 and that the same is sought to be reviewed in Rev. Appl. No.143 of 2023 which is under consideration. For ease of reference, the relevant paragraph from the order of the learned Judge is extracted below:

“4. It is seen in the counter filed by the second respondent that as mentioned by the learned counsel for the petitioner, a similarly placed person was before this Court in W.P.No.33033 of 2019 and in which this Court has already passed an order to grant the benefit to the petitioners. The learned counsel for the petitioner would submit that an appeal filed in W.A.No.681 of 2020 and the same was allowed, aggrieved over the same, a review application in Rev.Appl.No.143 of 2023 was filed and the same is pending. Despite the petitioners have taken several steps and made joint representations, the respondents have not considered so far. Now, it is reported by the learned counsel for the respondents that if the petitioners made a fresh representation, they would considered the same and pass appropriate orders subject to the outcome of the review application filed before this Court.”

(emphasis supplied)

7 In the considered opinion of this Court, having not made even a whisper before the learned Judge that the issue involved in Rev. Appl. No.143 of 2023 is not connected to the issue involved in the case on hand, and on the contrary, sailing with the respondent Corporation by submitting before the learned Judge that the writ appeal in W.A.No.681 of 2020 filed challenging the



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order passed in W.P. No.33033 of 2019 was allowed *vide* judgment dated 23.12.2021 which order was sought to be reviewed in Rev. Appl. No.143 of 2023, the appellants are now estopped from contending contra. That apart, on a careful perusal of the records, it is beyond any pale of doubt that Rev. Appl. No.143 of 2023 emanates only from the order passed in W.A.No.681 of 2020, which emanates from the order passed in W.P.No.33033 of 2019. Looking from this angle also, the appellants cannot contend that the issue involved in Rev. Appl. No.143 of 2023 has no nexus with the issue involved in the case on hand.

8. Be that as it may, since the respondent Corporation had taken a specific stand before the learned Judge that if the appellants make a fresh representation, the same would be considered by the respondent Corporation, as observed by the learned Judge, the appellants are at liberty to address a representation to the respondent Corporation setting out their case, within a period of two weeks from the date of receipt of a copy of this judgment, and upon receipt of such a representation from the appellants, the same shall be considered by the respondent Corporation and orders passed purely on merits within a period of six weeks. Needless to state, the orders to be passed by the respondent Corporation on the appellants' representation shall be subject to the outcome of



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Rev. Appl. No.143 of 2023, which clause, it needs to be clarified that, did not figure in the order impugned.

This writ appeal stands disposed of by modifying the order of the learned Judge to the limited extent indicated above. Costs made easy.

[R.M.D, J.] [M.S.Q, J.]
02.04.2024

Neutral Citation : Yes/No
gya/cad



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R. MAHADEVAN, J.

AND

MOHAMMED SHAFFIQ, J.

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