



W.P.No.14646 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.14646 of 2020
and W.M.P.Nos.18200 of 2020 & 13025 to 13026 of 2021

L.Gopalakrishnan

... Petitioner

Vs.

1.The Chairman cum Managing Director Personel,
Tamil Nadu Electricity Generation and Distribution Co. Ltd.,
10th Floor, NPKRR Maligai,
No.144, Anna Salai,
Chennai – 600 002.

2.The Chief Engineer Personel,
Tamil Nadu Electricity Generation and Distribution Co. Ltd.,
8th Floor, NPKRR Maligai,
Anna Salai,
Chennai – 600 002.

3.The Superintending Engineer,
Tamil Nadu Electricity Generation and Distribution Co. Ltd.,
Villupuram,
Villupuram Taluk and District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned proceeding vide memo No.092085/528G-3/G-31/2019 dated



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15.09.2020 issued by the second respondent herein and quash the same as null and void and consequently directing the respondent herein to promote petitioner basing on the strict service seniority, in the category of Junior Engineer-Electrical Grade-II.

For Petitioner : Mr.G.Thangavel

For Respondents : Mr.K.Rajkumar,
Standing Counsel

ORDER

The present writ petition has been filed to call for the records of the impugned proceeding vide memo No.092085/528G-3/G-31/2019 dated 15.09.2020 issued by the second respondent herein and quash the same as null and void and consequently directing the respondent herein to promote petitioner basing on the strict service seniority, in the category of Junior Engineer-Electrical Grade-II.

2. Learned counsel for the petitioner submitted that the case of the petitioner is that he was recruited to the post of Technical Assistant (Electrical) under the physically handicapped quota by direct recruitment 2013-2014 and he joined duty on 06.03.2014 and completed his probation on



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05.09.2014. Thereafter, as a request transfer, the petitioner joined duty in the present place of work i.e., Office at Kandamangalam Division, Villupuram Taluk. As such on 22.04.2017, the suitability report was called for preparation of promotion panel to the post of Junior Engineer-Electrical-Grade II. In the list of selected candidates, the name of the petitioner was included as Serial No.834. Subsequently, a promotion was given to his immediate senior as Junior Engineer-II with effect from 30.12.2017. Hence, the next chance of promotion ought to have been given to the petitioner, whereas the immediate junior viz., Eswari.S, who is having Serial No.835 was given promotion to the post of Junior Engineer-II, Electrical with effect from 30.12.2017 and the name of the petitioner was omitted from the list.

3. Learned counsel for the petitioner further submitted that the petitioner has sent many representation dated 22.01.2018, 21.06.2018, 22.06.2018 and 19.08.2019 to include his name for promotion, but the same was not considered. Therefore, the petitioner filed writ petition in W.P.No.30742 of 2019 before this Court seeking direction to the respondents to consider his representation dated 19.08.2019 and this Court vide its order



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dated 31.10.2019 directed the respondents to consider the same within a period of 12 weeks from the date of receipt of a copy of the order.

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4. Learned counsel for the petitioner further submitted that pursuant to the said order, the petitioner has sent another representation dated 14.01.2020 to the respondents to comply the order of this Court dated 31.10.2019. In the said circumstances, the second respondent issued a proceeding vide Memo No.092085/528G.3/2019, dated 15.09.2020 by rejecting the claim of the petitioner stating that the “Medical Board has declared his Visual Disability as 100%”. In order to clarify the same, the third respondent has also issued a communication Memo vide Memo No.003311/Adm.1/A.3/2020, dated 22.09.2020. Aggrieved over the said proceeding dated 15.09.2020 passed by the third respondent, the petitioner has come forward with the present writ petition.

5. Learned counsel for the petitioner further submitted that the respondents have denied periodical increment to the petitioner in the present



cadre from January 2019. Further the leave surrender salary for 30 days is yet to be paid. The petitioner has already submitted a representation to pay the conveyance allowance to him and the same was also not sanctioned to him.

6. Learned counsel for the petitioner further submitted that the petitioner has completed more than 6 years of unblemished continuous service and he is entitled to get promotion as Junior Engineer. The existing statutory provision morefully described under the Rights of Persons with Disability Act, 2016 (Act No.49 of 2016) enable the handicapped persons to have the privilege of preference. As such the due promotion cannot be denied under the law in force and if there is any denial of promotion only on the reason of handicapped nature, the denial of promotion would be in violation of the basic Principles of Natural Justice. Hence, he prayed this Court to allow the present writ petition.

7. The counter affidavit was also filed by the second respondent on



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23.12.2021. Learned Standing Counsel appearing for the respondents would submit that if he got defective vision, she should also produce a Special Certificate in the form annexed in the Physical Certificate duly filled in and attested by an Ophthalmic Surgeon employed in a Government Hospital. In response to that, the petitioner also submitted the Medical Certificate, wherein it is certified that “Thiru.L.Gopalakrishnan candidate to be specified is fit for appointment as Technical Assistant.” Based on the above, his name was considered and appointed as Technical Assistant/Electrical and he has joined in the office of Executive Engineer, Pookkadai Division, Chennai on 06.03.2014.

8. Learned Standing Counsel appearing for the respondents would further submit that based on his request transfer application, the petitioner was transferred to the Office of Superintending Engineer, Villupuram Electricity Distribution Circle/third respondent and joined duty on 12.10.2015 in the office of the Executive Engineer, Kandamangalam Division. From the date of joining in the Executive Engineer, Kandamangalam Division on 12.10.2015, he could not to sign in the



attendance register and also he could not do office work without the help of others due to visual impairment. Hence, the third respondent has referred the petitioner to the Medical Board for eye test. After examination, the Medical Board has issued the certificate dated 27.01.2016 therein it was mentioned that ***“70% visual disability progressive condition will need re-evaluation every year.”***

9. Learned Standing Counsel appearing for the respondents would further submit that the panel for promotion to the post of Junior Engineer/Electrical-Grade II was prepared based on the crucial date of 25.03.2017 and the 1187 suitability reports was called for, including the name of the petitioner from the third respondent and he has stated in the petitioner's suitability report that “70% visual disability to read and write, the individual represented for suitable alternate post” and not recommended his name for promotion to the post of Junior Engineer/Electrical Grade-II. Hence, the departmental promotion committee has not recommended the petitioner's name in the panel of promotion to the post of Junior Engineer, Electrical-Grade II, since the Junior Engineer, Electrical-Grade II post in 110/230KV SS is doing work with electrical apparatus and lines. The safety



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of the individual and other staff are important and same has been communicated to the petitioner on 31.10.2017.

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10. Learned standing counsel appearing for the respondents would further submitted that the petitioner in his representation dated 13.11.2015 & 01.11.2016 stated that he could not sign in the attendance register and was not able to do any office work without the help of others, due to vision impairment. Hence, he has requested to give the alternative post such as Telephone Operator in the Superintending Engineer, Villupuram Central Office or transfer to Thiruvannamalai Training Centre.

11. Learned standing counsel appearing for the respondents would further submit that there was no sanctioned post of Technical Assistant-Electrical in Thiruvannamalai Training Centre and the individual was referred to the Medical Board requesting whether he is fit for the post of Telephone Operator vide Chief Engineer/Per's Letter No.27788/959/G3/G32/2016-4, dated 31.10.2019 and reply has been received from the Medical Board vide letter No.410/MD/2020, dated 07.02.2020,



therein it is stated that Visual Disability 100% unfit for the post of Telephone Operator. However, the petitioner is getting his salary, other allowances except the increment and surrender leave salary from the year 2019.

12. Learned standing counsel appearing for the respondents would further submitted the nature of work of the Junior Engineer-Electrical Grade-II and the same reads as follows:

1	Operation of equipments in sub-station under charge efficiently and economically and in accordance with requirement of power demand, regulation of voltage and frequency	Unable
2	Maintenance of continuous supply, under both normal and abnormal condition of operations	Unable
3	Correct logging of a) Loads, Voltage, Temperature etc., of equipments b) interruption c) Operations done during normal and abnormal conditions of operations.	Unable
4	Reporting of Break-Downs of equipments, failure of supply, accident and other serious occurrence immediately to the superior officers	Unable
5	Issue of permit to work on station equipments and on lines eliminating from the station after completely isolating the concerned equipments discharging, grounding them effectively	Unable
6	Checking up of Sub Station equipments after return of permits and satisfying that men and materials and grounding on the equipment that have been removed before energising or declare them as stand by for normal service.	Unable



7	Testing of Batter Circuit	Unable
8	Checking up of the alarm circuit by using Alarm Accept Switch	Unable
9	Safe custody of keys for the various switches, isolator, etc.,	Unable
10	Maintaining Rubber Glovers and Gauntlets operating handles and discharge rods in good condition	Unable
11	Cleaning of Switch Boards, Panels, and Telephone	Unable
12	Watering of Station earths daily	Unable
13	Preparation of Daily Reports	Unable
14	Receipt and Transmission of Telephone message correctly without delay	Unable
15	Tripping register, Max & Min demand register, Trunk call register, special observation register, Log Book, Load details Book to be maintained correctly with out delay	Unable

13. Heard the learned counsel on either side and perused the materials available on record.

14. In the case on hand, the petitioner was appointed as Technical Assistant in the year 2014 and his name was included in the promotion panel for the post of Junior Engineer-Electrical Grade II in Sl.No.834. However, his name was not considered for the said promotion for the reason that he was having 70% visual disability. As per annexure II, the suitability list was



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prepared for 60 persons in which the petitioner name was earmarked for suitable alternative post as on 31.10.2017. In this regard, the petitioner has also requested the respondents to give alternative post such as Telephone Operator in the Superintending Engineer, Villupuram Central Office or transfer to Tindivanam Training Centre and the same was rejected for the reason that there was no sanctioned post of Technical Assistant/Electrical in Thiruvannamalai Training Centre and the petitioner was referred to the Medical Board requesting whether he is fit for the post of Telephone Operator. Pursuant to the same, the Medical Board has sent a report dated 07.02.2020, wherein it is mentioned that the visual disability of the petitioner is 100% and he is unfit for the post of Telephone Operator.

15. At this juncture, it is pertinent to mention the nature of work of the Junior Engineer/Electrical Grade-II and the same reads as follows:

1	Operation of equipments in sub-station under charge efficiently and economically and in accordance with requirement of power demand, regulation of voltage and frequency	Unable
2	Maintenance of continuous supply, under both normal and abnormal condition of operations	Unable
3	Correct logging of a) Loads, Voltage, Temperature etc., of	Unable



	equipments b) interruption c) Operations done during normal and abnormal conditions of operations.	
4	Reporting of Break-Downs of equipments, failure of supply, accident and other serious occurrence immediately to the superior officers	Unable
5	Issue of permit to work on station equipments and on lines eliminating from the station after completely isolating the concerned equipments discharging, grounding them effectively	Unable
6	Checking up of Sub Station equipments after return of permits and satisfying that men and materials and grounding on the equipment that have been removed before energising or declare them as stand by for normal service.	Unable
7	Testing of Batter Circuit	Unable
8	Checking up of the alarm circuit by using Alarm Accept Switch	Unable
9	Safe custody of keys for the various switches, isolator, etc.,	Unable
10	Maintaining Rubber Glovers and Gauntlets operating handles and discharge rods in good condition	Unable
11	Cleaning of Switch Boards, Panels, and Telephone	Unable
12	Watering of Station earths daily	Unable
13	Preparation of Daily Reports	Unable
14	Receipt and Transmission of Telephone message correctly without delay	Unable
15	Tripping register, Max & Min demand register, Trunk call register, special observation register, Log Book, Load details Book to be maintained correctly with out delay	Unable

On perusal of the work nature of post of Junior Engineer, it is evident that it is a field work and the petitioner will be directly dealing with electrical apparatus. As rightly pointed out by the learned standing counsel appearing



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for the respondents, it is not safe for the petitioner and his safety must have also been taken care.

16. This Court vide its order dated 15.06.2022 directed the learned standing counsel for the respondents to file a report in respect of accommodation of petitioner in the alternative job on par with the same category of Junior Engineer Grade II and also to file a report with regard to why the respondents have not paid the salary to the petitioner from the month of April 2021 and the learned Government Pleader has also submitted a report vide Letter No.070516/G3/G32/2020, dated 11.08.2022, wherein it is stated that there were eight (8) posts, which is equivalent to the category of Junior Engineer-Electrical Grade-II and the said posts are listed below:

Sl.No.	Name of the Post	Level of Pay
1	Accounts Supervisor	36400-115700
2	Administrative Supervisor	
3	Foreman.I.Grade	
4	Driver/Heavy vehicle Drive	



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5	Librarian	
6	Revenue Supervisor	
7	Stores Supervisor	
8	Senior Draughtsman	

During the course of arguments, Learned standing counsel appearing for the respondents brought to the knowledge of this Court that **the post of Librarian, which is mentioned in Coloumn 5 of the aforesaid list is not available in the respondents office and the petitioner is eligible for other seven (7) posts in the level of pay of Rs.36,400 – 1,15,700/-.**

17. In view of the above facts and circumstances of the case, the first respondent is directed to promote the petitioner to a equivalent post on par with the post of Junior Engineer, mentioned in the written instruction dated 11.08.2022, except to the post of Librarian which is not available in the board, with effect from 23.10.2017 with the scale of pay of Rs.36,400/- by relaxing all the rules and regulations by placing it before the board taking into consideration that the petitioner is 100% visual impaired and the said exercise shall be completed within a period of four months from the date of receipt of a copy of the order. This Court makes it clear that this case should be treated as special case and



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all the conditions and rules shall be relaxed in the case of the petitioner.

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18. This writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No



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