



W.P.Nos.25727 & 25728 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.25727 & 25728 of 2022 and
WMP.Nos.24786 & 24784 of 2022

WP.No.25727 of 2022

1.S.Bala Krishnan
2.S.Selvadurai
3.A.Kala
4.K.Manivannan

... Petitioners

Vs.

1.The Chairman cum Managing Director,
Tamilnadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002
2.The Chief Engineer Personnel,
Tamilnadu Generation and
Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002
3.The Registrar,
Vinayaka Missions University,
Director of Distant Education,
Ariyanur, Salem 636 308
4.H.Rajamohamed

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue Writ of Certiorarified Mandamus calling for the records



W.P.Nos.25727 & 25728 of 2022

of the second respondent proceedings in Memo.No.003163/92/G181 / 2021-1 dated 09.06.2022 and to quash the same and consequently direct the second respondent to re-designate the petitioners as Assistant Engineer (Electrical) from the date of their joining as Junior Engineer Ist Grade Electrical during the calendar year – 2009 as per the Tamilnadu Electricity Board Regulations 92 in ANNEXURE – I class-II, Division-II Category-IV and also as per the B.P.Ms.(FB).No.65 dated 12.08.1985 and as per the orders of the Hon'ble Supreme Court dated 03.11.2017 in Civil Appeal Nos.17869 – 17890 of 2017.

For Petitioners : Mr.V.Stalin

For Respondents

For R1 & 2 : Mr.K.Rajkumar,
Standing Counsel

WP.No.25728 of 2022

- 1.V.N.Chakravarthy
- 2.K.Arulanathan
- 3.D.Baskar
- 4.S.Murugan
- 5.G.Jothilakshmi

... Petitioners

Vs.

- 1.The Chairman cum Managing Director,
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Distribution Corporation Ltd.,
No.144, Anna Salai, Chennai 600 002
- 2.The Chief Engineer Personnel,
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W.P.Nos.25727 & 25728 of 2022

3.The Registrar,
Vinayaka Missions University,
Director of Distant Education,
Ariyanur, Salem 636 308
4.H.Rajamohamed

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records of the second respondent proceedings in Memo.No.003163/92/G18/G181 / 2021-1 dated 09.06.2022 and to quash the same and consequently direct the second respondent to re-designate the petitioners as Assistant Engineer (Electrical) from the date of their joining as Junior Engineer Ist Grade Electrical during the calendar year – 2009 as per the Tamilnadu Electricity Board Regulations 92 in ANNEXURE – I class-II, Division-II Category-IV and also as per the B.P.Ms.(FB).No.65 dated 12.08.1985 and as per the orders of the Hon'ble Supreme Court dated 03.11.2017 in Civil Appeal Nos.17869 – 17890 of 2017.

For Petitioners : Mr.V.Stalin

For Respondents

For R1 & 2 : Mr.K.Rajkumar,
Standing Counsel

COMMON ORDER



W.P.Nos.25727 & 25728 of 2022

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Both the writ petitions have been filed challenging the order dated 09.06.2022 on the file of the second respondent rejecting the request made by the petitioners for re-designating them as Assistant Engineer(Electrical) based on validation of degree.

2. All the petitioners are working as Junior Engineer (Electrical) Grade-I. The details of the petitioners with regards to their educational qualification, induction into service of the Board and promotions are as follows:

WP.No.25727 of 2022

S No.	Name	Diploma in Electrical & Electronics Engineering	Inducted into Board service as Technical Assistant on	Promoted as JE Grade-II (Electrical) on	Promoted as JE Grade-I (Electrical) on
1	S.Bala Krishnan	Oct 1995	19.01.1998	22.01.2004	16.12.2009
2	S.Selvadurai	April 1989	19.06.1998	08.12.2005	05.03.2009
3	A.Kala	April 1995	29.12.1997	04.02.2004	29.06.2009
4	K.Manivannan	April 1995	29.12.1997	06.05.2005	06.11.2009

WP.No.25728 of 2022



W.P.Nos.25727 & 25728 of 2022

S No.	Name	Diploma in Electrical & Electronics Engineering	Inducted into Board service as Technical Assistant on	Promoted as JE Grade-II (Electrical) on	Promoted as JE Grade-I (Electrical) on
1	V.N.Chakravarthy	April 1997	29.01.1999	16.03.2006	06.01.2009
2	K.Arulanantham	April 1993	26.04.1995	29.11.2002	01.02.2007
3	D.Baskar	April 1992	26.02.1998	20.02.2006	09.03.2009
4	S.Murugan	April 1994	02.01.1998	03.04.2007	12.01.2009
5	G.Jothilakshmi	April 1993	02.01.1998	31.12.2003	13.12.2007

3. As per the Tamilnadu Electricity Board Regulations 92, Junior Engineers(Electrical) Grade-I who are holders of Diploma in Electrical Engineering and who have subsequently acquired a degree in Electrical Engineering shall be promoted to be re-designated as Assistant Engineer(Electrical) and appointed in the post of Assistant Engineer(Electrical), if there are regular vacancies in the post of Assistant Engineer(Electrical). The next avenue of promotion from the cadre of Assistant Engineer(Electrical) is Assistant Executive Engineer(Electrical) in the ratio of 3:1. The petitioners had completed their BE degree in Vinayaka Missions University, formerly known as Vinayaka Missions' Research Foundation through Distance Education Programme in the year 2005. They were graduated in the month of September 2008. They



W.P.Nos.25727 & 25728 of 2022

obtained prior promotion from the respondents to undergo their BE degree and completed the same in the month of September 2008. Therefore, they are eligible for re-designation to the post of Assistant Engineer. At this juncture, the Hon'ble Supreme Court of Orissa held that the persons who have completed BE through distance education mode were eligible to be considered for promotion. Whereas the other High Courts had taken a contrary view. Therefore, the issue was placed before the Hon'ble Supreme Court of India in a batch of cases. While pending the decision before the Hon'ble Supreme Court of India, the degrees obtained through distance education were suspended. Therefore, the request made by the petitioners for re-designation to the post of Assistant Engineer were kept in abeyance.

4. The Hon'ble Supreme Court of India by its order dated 03.11.2017 in Civil Appeal No.17869 to 17870 of 2017, held that persons who had enrolled for the academic years 2001 to 2005 and whose degrees were suspended had to undergo a special examination devised by the All India Council for Technical Education(AICTE) and



W.P.Nos.25727 & 25728 of 2022

were given two attempts to clear the same, failing which the degree shall stand cancelled. Once the student clears the examination, all advantages and benefits shall be restored to them and their degrees stand revived. The Hon'ble Supreme Court of India also directed AICTE to conduct examinations for individuals who have been promoted based on Engineering Degrees through distance education mode. The petitioners were permitted to write examination for validating their Bachelor of Engineering degrees. Accordingly, the petitioners had cleared the special examinations in the month of June and December, 2018. Accordingly their degrees had been validated and they are eligible to be re-designated as Assistant Engineer.

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



W.P.Nos.25727 & 25728 of 2022

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, 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



W.P.Nos.25727 & 25728 of 2022

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



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W.P.Nos.25727 & 25728 of 2022

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



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W.P.Nos.25727 & 25728 of 2022

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



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W.P.Nos.25727 & 25728 of 2022

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



W.P.Nos.25727 & 25728 of 2022

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 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.



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W.P.Nos.25727 & 25728 of 2022

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



W.P.Nos.25727 & 25728 of 2022

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.

10. Accordingly, both the writ petitions are dismissed. However, as per the very same impugned order passed by the second respondent dated 09.06.2022, if the petitioners opted for re-designation as Assistant Engineer (Electrical) with effect from June 2018/ December 2018 i.e. the date of passing Special Examinations thereby validated their degree of



W.P.Nos.25727 & 25728 of 2022

Bachelor of Engineering /Electrical, the same can be considered in accordance with the Rules. Therefore, the second respondent is directed to consider the petitioners for re-designation as Assistant Engineer (Electrical) with effect from their clearing the Special Examinations thereby validated their respective degree i.e. June 2018 / December 2018 in accordance with the Rules subject to the availability of regular vacancies in the post of Assistant Engineer (Electrical) within a period of two weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

24.01.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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W.P.Nos.25727 & 25728 of 2022

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W.P.Nos.25727 & 25728 of 2022

G.K.ILANTHIRAIYAN, J.

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W.P.Nos.25727 & 25728 of 2022

24.01.2024