



W.P.No.6795 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No. 6795 of 2015

Judgment reserved on 03.02.2025	Judgment pronounced on 07.02.2025
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A.Thalavai Muthu

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Petitioner

Vs.

1.The Government of Tamil Nadu
Rep.by its Secretary,
Labour and Employment Department,
Chennai – 600 009.

2.The Commissioner of Employment
and Training, Thiru Vi.Ka.Industrial Estate
Guindy, Chennai – 600 032.

3.The Assistant Director,
Professional and Executive
Employment Exchange,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai – 600 032.

4.The Tamil Nadu Generation and
Distribution Corporation Ltd.,
(Formerly TNEB)
Rep.by its Chairman
Anna Salai, Chennai – 600 002.



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5. The Chief Engineer/Personnel
The Tamil Nadu Generation and
Distribution Corporation Ltd.,
8th Floor, No.144 Anna Salai,
Chennai – 600 002.

6.The Assistant Director
Professional and Executive
Employment Office,
Madurai Branch,
Madurai Govt. ITI Complex,
K.Pudur, Madurai – 625 007.

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India praying for a writ of mandamus calling for the records of the 3rd respondent pertaining to the petitioner's order made in No.Nee.Vaa3/22159/2013 dated 30.01.2014 and quash the same, consequent to direct the respondents 1 to 5 to pay compensation of Rs.50,00,000/- jointly and severally to the petitioner for the reason of unfairly denial of appointment to the cadre of Assistant Engineer to the petitioner in the year 2005 & 2007 respectively and further direct the 4th and 5th respondents to pay compensation of Rs.50,00,000/- or in the alternative to appoint the petitioner as Assistant Engineer with all attendant benefits including monitory benefits.



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For Petitioner : Mr.R.Malaichamy

For R1 to R3 & R6 : Mr.G.Ameedins
Govt. Advocate

For R4 & R5 : Mr.Rajkumar

ORDER

The above writ petition has been filed praying for a writ of mandamus calling for the records of the 3rd respondent pertaining to the petitioner's order made in No.Nee.Vaa3/22159/2013 dated 30.01.2014 and quash the same, consequent to direct the respondents 1 to 5 to pay compensation of Rs.50,00,000/- jointly and severally to the petitioner for the reason of unfairly denial of appointment to the cadre of Assistant Engineer to the petitioner in the year 2005 & 2007 respectively and further direct the 4th and 5th respondents to pay compensation of Rs.50,00,000/- or in the alternative to appoint the petitioner as Assistant Engineer with all attendant benefits including monitory benefits.

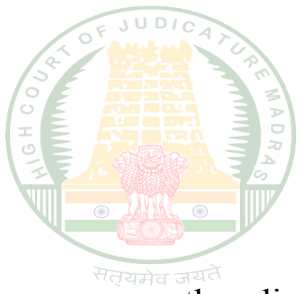


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2. The service matrix of the petitioner is as follows -

2(a) During the year 1994, when the 3rd respondent's office namely Professional and Executive Employment Office, Chennai was computerised, the petitioner's community as MBC was not updated and hence his registration existed under Open Competition category. During the year 1994, when computerisation work was taken up by the office of the 3rd respondent, more than 50,000 registration details have been keyed in computer within a short spell of time by hiring man power from out sourcing. During February 2005, the petitioner was nominated by the office of the 3rd respondent and selected for the post of “Computer Programmer” in the office of the District Programme Co-ordinator, Sarva Siksha Abhiyan, Tirunelveli. Consequent to this, the petitioner joined the said post during April 2005. When the result of selection was intimated to the office of the 3rd respondent, the petitioner's registration was removed from the live register as “placed” like other regular placements. In the mean time, during the year 2007, Tamil Nadu Electricity Board notified 6 vacancies of Assistant Engineer (Computer) to the office of the 3rd respondent. In order to avoid omission in nomination, wide press release was given on 20.04.2007 by the office of the 3rd respondent requesting



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the eligible registrants to verify whether their names were available in the proposed list. The petitioner's name did not figure in the above list and hence he did not turn up to the office of the 3rd respondent. But when the petitioner approached the 3rd respondent on 12.09.2007, he was given to understand that the registration particulars of the petitioner has already been transferred to dead register due to his appointment in the Office of District Programme Co-ordinator, Sarva Siksha Abhiyan, Tirunelveli.

2(b) The petitioner's registration has not been completely deleted from the live register of the office of the third respondent. Due to his appointment in the office of the District Programme Co-ordinator, Sarva Siksha Abhiyan, Tirunelveli, his registration details have been classified as “placed”. However, the petitioner's original seniority dated 28.01.1993 was restored on 11.10.2007 itself when the petitioner produced all the records connected with his appointment in Sarva Siksha Abhiyan, Tirunelveli.

2(c) During the year 2007, the Tamil Nadu Electricity Board has notified six vacancies of Assistant Engineer (Computer Science). Out of this, one vacancy has been reserved for General MBC Non-Priority and one



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vacancy for General Turn Non-Priority and remaining four vacancies was earmarked for other categories. For this vacancy, candidates registered upto 22.07.1994 were nominated under Most Backward Class Non-Priority category and candidates registered up to 25.03.1992 were nominated under General Turn Non-Priority category. The above said cut-off date for the above vacancy has been advertised in the media on 20.04.2007 to enable the registrants to verify the chances of their nomination if they were within the cut-off date. But the petitioner has approached belatedly on 12.09.2007, five months after sending the list to the employer. As the petitioner's registration was under "placed" category, the petitioner has not been considered for above vacancies. The petitioner obtained "No Objection Certificate" from the employer and re-registered on 11.10.2007 and on the same day, his MBC community was registered and original seniority dated 28.01.1993 was restored. However, the name of the petitioner was not considered for the nomination made by 3rd respondent during the year 2007.

2(d) Writ Petition No.24914 of 2010 was filed by the petitioner before this Court and the same was disposed on 31.01.2011, with a direction to the 3rd respondent namely Professional and Executive Employment Office,



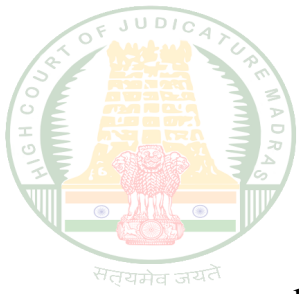
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Chennai to sponsor the name of petitioner, if otherwise eligible, by taking into consideration his seniority from 28.01.1993. As per this court order, the petitioner was informed by the 3rd respondent's letter No.A1/20674/2011 dated 21.10.2011 that his original seniority dated 28.01.1993 has been restored on 11.10.2007 however, he cannot be considered for the vacancy which was finalized earlier on 28.03.2007.

2(e) The petitioner was informed that his name will be considered for future vacancies. During the year 2012, the Tamil Nadu Electricity Board notified nine vacancies of Assistant Engineer (Compute Science), of which, one post was reserved for MBC Non-Priority. The cut-off date for MBC non-priority candidates sponsored for this vacancies was 19.05.1994 and the petitioner's name was nominated as he was well within the seniority. It is also submitted that the petitioner has attended the interview but he was not selected by TNEB.

3(a) In the counter filed by the second respondent, it is stated that the mistake pointed out by the petitioner was not done wantonly. During the year 1994, when computerisation work was taken up by the office of 3rd



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respondent, more than 50,000 registration details have been keyed in computer within a short spell of time by hiring man power from out sourcing. Even though utmost care was taken to enter the factual details, some datum might have escaped while entering the details. Like wise, during the year 2007, when the vacancies were notified to the 3rd respondent, wide publicity was given so that the registrants could verify the cut-off date in order to avoid omission of eligible candidates. Had the petitioner approached the 3rd respondent in time, i.e. before the finalization of the list, the mistakes would have been rectified. But the petitioner has approached the 3rd respondent only after five months after sending the list to the 4th respondent namely TNEB and hence he could not be selected.

3(b) The Employment Exchanges are rendering free service for the general public and no fee is levied for the service rendered by them. Only very few thousands of vacancies are notified by Government/Quasi Governments Local Bodies etc., to those employment offices. It is quite impossible for the employment exchanges to provide Government Job to all persons, who are in the live register. Only very few thousands of eligible applicants get job through employment exchange every year. The service



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rendered by the employment offices is totally free of cost. It neither solicits nor refuses any citizen who approach the employment exchange. The employment exchanges are one among the institutions to facilitate the petitioner to assist to get job and not the only institution to assist to provide job.

4(a) The fourth respondent also filed counter and the same has been adopted by the fifth respondent wherein they have stated that before filing of the writ petition by the petitioner in the year 2010, recruitment process for the period 2005 – 2007 was over and that for the period of 2012, it is specifically stated that by letter dated 05.01.2021, a list of candidates had been called for, for filling up of 450 posts of Assistant Engineers / Electrical, 100 posts of Assistant Engineer/Mechanical and 50 posts of Assistant Engineer / Civil from the 3rd respondent.

4(b) In response to the said notification, the 3rd respondent sponsored a list of 2178 candidates qualified in the field of BE/ AMIE on 12.3.2012. In the said list, the petitioner was sponsored for the post of Assistant Engineer/ Electrical (Computer Science) under MBC Community



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based on his seniority from 28.01.1993 by the Employment Exchange. Based on the above list, TANGEDCO sent a call letter to the individual for interview and the petitioner attended the interview at Chennai centre.

4(c) The cut-off marks for the post of Assistant Engineer/Electrical in respect of MBC CSE/IT Branch was 71.44 whereas the petitioner has secured only 57.93% as detailed below and hence, he has not reached the zone of selection.

5. The learned counsel for the petitioner relying upon the counter statement filed by the second respondent would submit that due to the mistake on the part of the second respondent, the nomination of the petitioner was not considered in the MBC category and was considered in the Open Category candidate and hence the second respondent is liable to pay compensation. The learned counsel also relied upon the judgment of this Court in W.P No.20665 of 1998 and also the sponsoring candidates list for the year 2005. With regard to the compensation, though the amount was not quantified, the second respondent, by order dated 30.01.2014, rejected the case of the petitioner saying that the second respondent is a Government



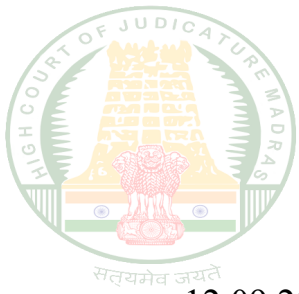
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Organisation and they are doing the service free of cost and hence compensation cannot be granted.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 to 3 and 6 and the learned counsel appearing for the respondents 4 & 5.

7(a) From the narration of the events taken place, it is seen that based upon the enrolment with the employment exchange, the name of the petitioner was sponsored for the post of computer programmer in Sarva Siksha Abhiyan, Tirunelveli and he also joined the said post in April 2005. Hence, the petitioner's registration was removed from the live register placed like any other placement.

7(b) Only in the year 2007, the Tamil Nadu Electricity Board has notified six vacancies and hence following the principles, they have sponsored the candidates. As narrated supra, the petitioner's original seniority dated 28.01.1993 was restored only on 11.10.2007 and the petitioner has approached the 3rd respondent viz employment exchange only on



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12.09.2007, five months after sending the list to the employer. Since the petitioner was under the “placed category”, his name was not considered for the above vacancy. Subsequent thereto, he obtained NOC from his employer and re-registered on 11.10.2007 under MBC category. The original seniority was restored only thereafter and hence the contention of the learned counsel for the petitioner finding fault with the third respondent could not be countenanced. Hence, the name of the petitioner could not be considered for the nomination made by the 3rd respondent.

8. During the computerisation, certain omissions and corrections have taken place, as mentioned in para 11 of the counter, as extracted supra, but the petitioner was not diligent enough to correct the mistake then and there.

9 Based upon the counter affidavit, the learned counsel for the respondents 4 & 5 would state that during the year 2012, the candidature of the petitioner was sponsored by the third respondent but he did not score well. Only after the results were published in the year 2012, as extracted supra, the petitioner has filed the writ petition in the year 2015 for the above



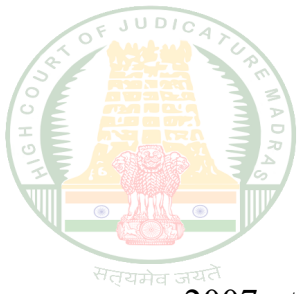
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stated prayer.

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10(a) It remains to be stated that for the counter affidavit filed by the respondents, the petitioner has filed rejoinder, typedset and additional typed set. The learned counsel for the petitioner would state that the third respondent viz. employment exchange has not followed the rules and the petitioner wanted him to be appointed as Assistant Engineer for the year 2007 and also compensation. Even after 2007, his name was considered for 2012 but he has miserably scored lower marks i.e. 57.44 which also goes against the petitioner. Now that he has filed the present petition seeking for employment.

10(b) This Court, under Article 226 cannot issue a direction to appoint a person who has not even applied or contested or participated in the written examination for the year 2007 and he alleges negligence on the part of the third respondent for non-sponsorship of the candidature. The reason has been clearly spelt out by the third respondent in his counter at para 9 which is as clear as that. Hence, I find that the writ petition has been filed with misconception of facts and for the selection of candidates in the year



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2007, the writ petition was filed in the year 2015. Thus, this court finds that there is a clear delay and laches on the part of the petitioner for eight years in approaching the court and the petitioner has also been sponsored by the third respondent for the year 2012 and in the said examination, the petitioner has miserably failed and secured low marks, i.e more difference as against the cut off marks, as narrated supra and this writ petition was filed only after three years for non-selection of the petitioner.

11. In view of the above circumstances, I find that the petitioner has not made out any case for issuance of writ of mandamus as prayed for. From the counter affidavit, the reasons assigned by the respondents 4 and 5 are found to be on factual position and hence the petitioner is not entitled for any direction to appoint him for the post of Assistant Engineer post in Tamil Nadu Electricity Board. Once this court finds that there is no negligence on the part of the third respondent, the question of awarding compensation does not arise. For the purpose of compensation, only a Civil Court is competent and the writ court is not competent to ascertain the damages for compensation.



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12. This Court has categorically rendered a finding that there is no negligence on the part of the third respondent and hence the petitioner is not entitled for the second relief also.

13. In the result, this Writ Petition is dismissed. No costs.

07.02.2025

rgr

Index : Yes/No

Speaking/Non-speaking order



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RMT.TEEKAA RAMAN, J.

rgt

Pre-delivery Order in

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