

(2010) 01 MAD CK 0025

In the Madras High Court

Case No : Writ Petition No. 19493 of 2009, M.P. No's. 1 and 2 of 2008 and M.P. No. 1 of 2010

G. Dhanapal and Others

APPELLANT

Vs

The Secretary, All India Council for Technical Education and Others

RESPONDENT

Date of Decision : 27-01-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2010) 01 MAD CK 0025

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : K.M. Boopathy, A. Velmurugan and G. Krishnamoorthy, for the Appellant; M. Vaidyanathan, for R1 to R7 and G. Saravana Kumar, for R8 and R9, for the Respondent

Final Decision : Dismissed

Judgement

T.S. Sivagnanam, J.—By consent the Writ Petition itself is taken up for disposal. The challenge in the present writ petition is to an order

passed by the 7th respondent dated 01.08.2009, in so far as it relates to paragraph-2 therein and for a further direction to select the petitioners for

further promotion to the post of Assistant Engineer (Mechanical) in the services of the Tamil nadu Electricity Board.

2. The impugned letter dated 01.08.2009 is a communication emanating from the office of the 7th respondent forwarded to all the Chief Engineers

of TNEB, in the said letter certain guidelines have been fixed for filling up of vacancies of Assistant Engineer/Mechanical by Internal Selection. It

has been stated that it is proposed to call for application from the qualified employees of the board, who have passed B.E. (Mechanical) either part

time or regular or equivalent or Section A & B of AMIE examination as referred to in Regulation 1994, Annexure 3, for consideration and

appointment to the post of Assistant Engineer/Mechanical by Internal Selection. The petitioners are aggrieved by paragraph 2 of the said letter

dated 01.08.2009, which reads as follows:

2. The employees working in Regular work establishment and provincial Cadres who are in possession of the above said qualification are eligible

for consideration for this selection and appointment as Assistant Engineer/Mechanical and acquiring B.E. degree through Distance Education from

any Universities and acquiring M.E. degree without basic qualification of B.E. degree employees are not eligible for consideration and appointment

to the post of Assistant Engineer/Mechanical by Internal Selection.

3. All the petitioners herein are Diploma holders in Mechanical Engineering and they had enrolled themselves with the fifth respondent, which is a

deemed University at Salem for undergoing B.E. Mechanical Engineering course. It is stated that based on the assurance given by the fifth

respondent that the degree certificate issued by them would have the same value as certificate obtained from regular course, they joined the course.

It is further stated that the course is a correspondence course and apart from conducting B.E. correspondence course, the fifth respondent also

conduct M.E & M. Tech correspondence course. It is contended that the B.E. degree obtaining by them through distance education is equivalent

to other like qualification and the stipulation in the impugned letter dated 01.08.2009 is violative of Article 14, 16 & 21 of the Constitution of India.

4. Mr. G. Saravanakumar, learned Counsel appearing for the respondents 8 & 9 would contend that the 8th & 9th respondents have acquired

B.E./B.Tech qualification from recognized University duly approved by AICTE and in terms of Regulation 1994 of the TNEB Service Regulation

no person is eligible for appointment to the post unless he possesses the qualification specified. The qualification stated to be possessed by the

petitioners is not the required qualification and the course is not approved by AICTE and if the stand taken by the petitioners is accepted it would

dilute the standard and would have the effect of rendering the Rule redundant.

5. The University Grants Commission has also filed a counter affidavit stating that the UGC has not approved any proposal for establishment of

study centre by the fifth respondent and it is not entitled to run any study centre without the prior approval of UGC-AICTE-DEC joint committee.

It is further stated that so far as distance education programmes of the fifth respondent is concerned has neither been permitted nor approved by UGC.

6. Mr. M. Vaidyanathan, learned standing counsel for the board would submit this very issue came up for consideration before this Court in a

batch of Writ Petitions in W.P. No. 3307/2009 etc., and this Court by order dated 13.11.2009 after elaborately considering the matter dismissed

all the writ petitions and the learned Counsel would submit that the present writ petition is also covered by the said Judgment.

7. The learned Counsel appearing for the petitioner would contend that the issue in the batch of cases was pertaining to diploma course and

whereas the case on hand is persons with B.E. degree. In my view the point for consideration in the present case is as to whether Clause 2 of the

impugned letter dated 01.08.2009 stating that acquiring B.E. degree through distance education would not be eligible for consideration, is arbitrary

and unreasonable. In my view no ground has been raised by the petitioner to demonstrate as to how this prescription in Clause 2 of letter dated

01.08.2009 is arbitrary or unreasonable. Only attempt of the petitioners is by stating that the qualification obtained by them by means of distance

education cannot be stated to be not an appropriate qualification. In fact the very issue as regards the equivalence of diploma obtained from Open

University system came up for consideration in the batch of cases in W.P. No. 3307/2009 etc., batch and this Court by order dated 13.12.2009

held as follows:

31. However, it must be stated that in the present case, the respondent TNEB being an employer is entitled to interpret its own regulation within

four corners of Law. It is also open to them to state that the requirement of diploma under Regulation 94 can only be a diploma obtained in a

regular course and not under an open university system. In this context, they are fortified by the fact that the Directorate of Technical Education

had also given a clarification and that the diplomas offered by the fifth respondent is only for two years duration and not three years as prescribed

by the State Board of Technical Education and Training. They had also obtained

opinion from the Anna University, which do not recognize these diplomas for entering into any Post Graduate course and for joining their part time B.E. or B.Tech programmes. The petitioners do not have a

fundamental right to urge that the diplomas obtained by them must necessarily be recognized by the respondent TNEB as a matter of course.

8. That apart the counter affidavit filed by the UGC clearly states that no approval has been granted to the fifth respondent for opening study

centres to offer such courses by distance education. Thus, it is clear that such courses have been conducted without approval. In fact the

arguments raised in the present writ petition was also subject matter of another Writ Petition in W.P. No. 19404/2009 with an identical prayer in

respect of promotion to the post of Assistant Engineer/Electrical on the ground that they were possessing B.E. degree issued by the fifth

respondent. This Court by order dated 01.12.2009 by following the earlier order in W.P. No. 3307/2009 etc., batch dated 13.11.2009 dismissed

the Writ Petition. It is to be noted that in the batch of cases in W.P. No. 3307/2009 etc., batch one of the cases covered in the batch is W.P. No.

18988/2009, which also relates to appointment to the post of Assistant Electrical Engineer by virtue of such B.E. degree obtained by from the fifth

respondent and these writ petition was also deal with along with the batch and dismissed by the common order dated 13.11.2009 and in

paragraph 36 of the order it has been held thus:

36. In W.P. No. 18988 of 2009, it is a case of Engineering graduates making similar claims. The nine petitioners in that W.P. have sought for

selection to the posts of Assistant Engineer (Electrical). The Petitioners" have got their degrees obtained from the Institute of Advanced Studies in

Education University (IASE), Gandhi Vidya Mandir, Sardarshahr, Rajasthan, which was a deemed University, under the correspondence system.

Their claims were rejected and their degrees were considered not equivalent to the degree required for the very same reasons.

The above order has also been followed in W.P. No. 19405/2009 dated 01.12.2009 and the Writ Petition was dismissed.

9. Therefore, for all the above stated reasons, there are no merits in the writ petition and accordingly the same is dismissed. Consequently,

connected miscellaneous petitions are also closed. However, there shall be no

order as to cost.