

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 12671/2022

(Arising out of impugned final judgment and order dated 30-07-2021 in WAMD No. 1506/2021 passed by the High Court Of Judicature At Madras At Madurai)

MOHAMED IBRAHIM

Petitioner(s)

VERSUS

THE CHAIRMAN AND MANAGING DIRECTOR & ORS.

Respondent(s)

(IA No.98810/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.98808/2022-EXEMPTION FROM FILING O.T.

IA No. 98810/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 98808/2022 - EXEMPTION FROM FILING O.T.)

Date : 24-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. A Velan, AOR
Ms. Navpreet Kaur, Adv.
Mr. Aditya Raj Singh, Adv.
Mr. Mritunjay Pathak, Adv.

For Respondent(s) Mr. T. Harish Kumar, AOR
Mr. Navneet Dugar, Adv.
Mr. Subham Kothari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The petitioner is aggrieved because he was discharged on 14.05.2020 after he was selected and appointed to the post of Assistant Engineer in 2015. He joined the service on 30.03.2017. It was transpired that during the course of his medical examination

he was color blind. He was therefore, referred to, on two occasions, to separate medical experts, who confirmed his condition of defective color vision. Consequently, the respondent-employer sought to initiate proceedings alleging that he had withheld information with regard to his inadequacy in physical fitness.

The petitioner, aggrieved, approached the Madras High Court, which directed the respondent-employer to re-examine the issue and refer the candidate to another Medical Board, which it did. Pursuant to this medical report (third in the series), dated 05.12.2019, petitioners' services were terminated by the impugned order.

The High Court allowed the Writ Petition, which the Division Bench set aside. The Division Bench was of the opinion that the employer (TANGEDCO) had taken all relevant facts into consideration, having regard to the nature of the duties to be discharged in relation to the post i.e. Assistant Engineer by the petitioner.

The record does not contain the last report (dated 05.12.2019) of the Board of Experts constituted by the employer/respondent.

Having considered the submissions, this Court is prima facie of the opinion that as a consequence of the impugned judgment, there is every likelihood of the petitioner being stuck in a limbo as it were, as he would not be considered as a person with disability under the Persons with Disabilities Act, 2016, on the one hand having regard to the nature of the coverage of that enactment and on the other he would perhaps be also unable to apply for any future public employment as he would be duty bound to

disclose his past service. Given that the petitioner had completed a technical qualification i.e. B.E. in Electrical and Electronics Engineering, his future would be bleak.

In these circumstances, this Court is of the opinion that the employer (respondent) should consider, to what extent, the petitioner can be accommodated in the same post with some responsibilities, having regard to the nature of his qualification; either in policy or at planning levels, etc.

TANGEDCO shall file an additional affidavit having regard to the above observations. It shall also produce the last medical report. The affidavit shall be filed within three weeks.

List after four weeks.

(Harshita Uppal)
SENIOR PERSONAL ASSISTANT

(MATHEW ABRAHAM)
COURT MASTER (NSH)