

HIGH COURT FOR THE STATE OF TELANGANA

*** * * * ***

WRIT PETITION No.18719 of 2016

Between:

T.Venkateshwarlu.

... Petitioner

and

The T.S. Power Generation Corporation Limited, Rep. by its Chairman and another.

... Respondents

DATE OF ORDER PRONOUNCED: 22nd March, 2024

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

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|----------|--|---------------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgment? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | Yes/No |

JUVVADI SRIDEVI, J

*** THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

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! Counsel for the petitioner : Sri N.Ramesh

^ Counsel for the Respondents : Ms. V.Uma Devi.

>HEAD NOTE:

? Cases referred

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**WRIT PETITION No. 18719 of 2016****ORDER:**

Petitioner is seeking to declare the action of respondents in disqualifying him for appointment to the post of Assistant Engineer (Mechanical) under Physically Handicapped (HH) Category, as arbitrary, illegal and sought for consequential direction directing the respondents to send him for re-medical examination in any prominent hospitals and to consider his case for appointment to the above post.

2. Heard both sides and perused the record.
3. Respondents have issued notification dated 23.09.2015 for filling up the vacancies of Assistant Engineer (Electrical/Mechanical/Electronics/Civil). Petitioner has applied to the post of Assistant Engineer (Mechanical) under Physically Handicapped (Hearing impaired) Category. After written examination, he was called for certificate verification. At that time, the petitioner did not produce the hearing impaired certificate and sought for time, which was granted. Case of the petitioner is that thereafter, the respondents have obtained his hearing disability certificate issued by the Government ENT Hospital, Koti, Hyderabad, certifying the disability as 13%. Basing on the said certificate,

he was disqualified, as the disability is less than 40%. Grievance of the petitioner is that such certificate was not shown to him and the respondents, on their own got it from the Hospital and disqualified him on the ground that he was having disability of only 13%. It is his case that had the said certificate been shown to him, he would have preferred an appeal to the appellate authority, as provided under Section 59 of the Persons with Disabilities (equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

4. It is the further case of petitioner that subsequently, he visited the Government ENT Hospital, Koti, Hyderabad, on 06.04.2016 and on 10.05.2016 for medical examination to know the percentage of his disability. The said Hospital issued certificate on 06.04.2016 to the effect that he was having 35% of hearing disability and that in the medical examination conducted on 10.05.2016, the hospital authorities have certified that his hearing disability was moderate in respect of both the ears. Thus, it is his case that there was vast difference in percentage of disability from 13% to 35% within a period of 40 days i.e., during the period from 24.02.2016 to 06.04.2016. Hence, he prays to refer him for re-examination so that he can establish the correct disability.

5. Respondents have filed counter affidavit admitting about the petitioner's appearance in the examination and the subsequent certificate verification. It is stated that at the time of certificate verification, the petitioner has produced four certificates of hearing disability, but in none of those four certificates, the percentage of disability was not stated. Therefore, he was asked to produce the latest hearing disability certificate. It is stated that in the certificate obtained from the Government ENT Hospital, Koti, Hyderabad, the hearing disability of petitioner was mentioned as 13%, therefore, he was disqualified. It is their case that in the online application submitted by the petitioner, he has mentioned his disability as more than 70% and basing on the same, he was allowed to the examination but in view of the certificate issued by the ENT Hospital, showing his disability as 13%, he was rightly disqualified and accordingly prayed for dismissal of the writ petition.

6. Since the facts of the matter are not in dispute, the only question to be considered in this writ petition is the variation in the percentage of hearing disability of the petitioner. In the certificate obtained by the respondents from the ENT Government Hospital, Koti, Hyderabad, the disability is shown as 13%, whereas, in the medical examination conducted on 06.04.2016, the same hospital has shown the disability as 35%. In view of such variation and taking into consideration the

contention of petitioner that the initial certificate issued by the ENT Hospital showing his disability as 13% was not shown to him and thus denying him the opportunity of approaching the appellate authority, this Court is of the considered view that it is a fit case to give one more opportunity to the petitioner to establish his hearing disability.

7. For the aforesaid reasons, petitioner is directed to make an application before the 2nd respondent requesting to refer him to the State appellate Medical Board within a period of one (01) week, whereupon, the 2nd respondent may refer the petitioner's application to the State appellate Medical Board within a period of two (02) weeks to consider his case in accordance with law. In the event of his satisfying the eligibility criteria of disability, respondents are directed to consider the petitioner's case for appointment to the post of Assistant Engineer (Mechanical) if he is otherwise eligible.

8. With the above directions, the writ petition is disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

JUVVADI SRIDEVI, J

Dated 22.03.2024

Note: Issue C.C. by tomorrow

LR copy be marked.

(b/o) lk