

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2/7/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.849 of 2015

The Secretary
Tamil Nadu Public Services Commission
Frazer Bridge Road
VOC Nagar
Chennai 600 003.

... Appellant

Vs

1. R. Sreejith
2. The State of Tamil Nadu
rep. By Chief Secretary
Secretariat
Fort St. George
Chennai 600 009.
3. The Secretary
Personnel & Administrative Reforms Department
Secretariat
Fort St. George
Chennai 600 009.
4. The Secretary
Department of Social Welfare &
Nutritious Meal Programme
Secretariat
Fort St. George
Chennai 600 009.
5. The Commissioner for persons with Disabilities
No.15/1, Model School Road
Thousand Lights
Chennai.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order made in W.P.No.23401 of 2010 dated 31/1/2014.

Praying for issuance of Writ of Certiorarified Mandamus, calling for the concerned records from the 4th respondent and to quash the Advertisement No.176 dated 10.11.2008 and supplementary Advertisement No.178 dated 11.12.2008 issued by the 4th respondent through its website in so far as not extending the 3% reservation for physically handicapped person to the post of Assistant Section Officer (Other than Law and Finance Department) and consequently direct the respondents to fill up all the vacancies (2414) notified in the Advertisement No.176 dated 10.11.2008 and supplementary Advertisement No.178 dated 11.12.2008 by extending the benefit of 3% reservation to the persons with disability as provided under Section 33 of the Persons with the Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995.

For appellant : Mr.P.H.Arvind Pandian
Additional Advocate General
for Mr.M.Devendran.

For respondents : Mr.Balan Haridoss for R.1.
Mr.P.S.Sivashanmugasundaram
Spl.G.P for R.R.2 to 5.

J U D G M E N T

(Judgment of the Court was made by SATISH K. AGNIHOTRI,J.,)

Assailing the legality and validity of the order dated 31/1/2014, the Tamil Nadu Public Service Commission has come up with the instant appeal, after a period of one year.

2. In the said order, keeping in view the spirit and object of the persons with disability, the learned Single Judge has directed that, as provided under Section 33 of the Persons with the Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, wherein it is prescribed that in the Government services, there shall be 3% reservation to the persons with ability, the petitioner, who is admittedly a physically challenged person, be considered for appointment on the basis of his performance.

3. Mr.P.H.Arvind Pandian, learned Additional Advocate General appearing for the Appellant/Tamil Nadu Public Services Commission submits that in the Notification dated 10/11/2008, inviting

application for appointment of several posts, it was clearly stated in clause 'G' under General Information that 3% reservation for physically handicapped persons shall not be applicable for the post of Assistant Section Officer (other than Law and Finance).

4. This prescription itself is contrary to the statutory requirement. However, without going into the validity of clause (G), particularly, in the case on hand, when it has been directed to appoint on the basis of the performance, we are not inclined to interfere with the order.

5. Accordingly, this Writ Appeal is dismissed. No costs. Connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Secretary
Tamil Nadu Public Services Commission
Frazer Bridge Road
VOC Nagar
Chennai 600 003.
2. The Chief Secretary,
State of Tamil Nadu
Secretariat
Fort St. George
Chennai 600 009.
3. The Secretary
Personnel & Administrative Reforms Department
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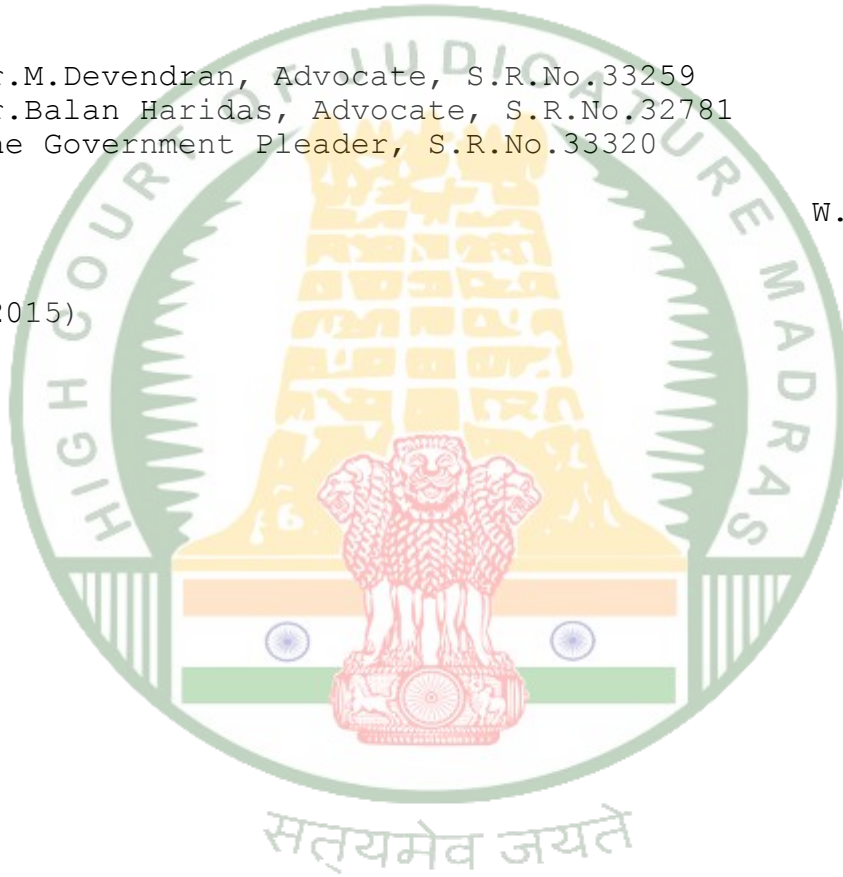
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4. The Secretary
Department of Social Welfare &
Nutritious Meal Programme
Secretariat
Fort St. George
Chennai 600 009.
5. The Commissioner for persons with Disabilities
No.15/1, Model School Road
Thousand Lights
Chennai.

+1cc to Mr.M.Devendran, Advocate, S.R.No.33259
+1cc to Mr.Balan Haridas, Advocate, S.R.No.32781
+1cc to the Government Pleader, S.R.No.33320

W.A.No.849 of 2015

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CA(13/07/2015)



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