

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.10248 of 2015

V.Babu

...Petitioner

vs.

1.The Secretary to Government,
State of Tamilnadu
Transport Department,
Fort St.George, Chennai - 600 009.

2.The Director,
The Tamilnadu Motor Vehicle Maintenance Department,
Velachery, Chennai - 600 042.

3.The District Collector,
Kanchipuram District,
Kanchipuram.

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified Mandamus, to call for the records of the second respondent made in Na.Ka.No./15745/2014 dated 07.01.2015 and to quash the same and consequently direct the respondents to appoint the petitioner to the post of Junior Assistant in terms of Clause 2(iii) of G.O.Ms.No.1499 Q1 Labour and Employment Department dated 03.08.1989 in any of the office of respondents workshop/office or in any office coming within the jurisdiction of third respondent.

For Petitioner : Mr.M.Kalyanasundaram
Senior Counsel for
Mr.V.Srinivasan

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

The petitioner's father was working in the workshop of the 2nd respondent and he died on 08.07.2002 while in service. The petitioner was appointed as Watchman on compassionate ground on 14.11.2008 and was posted to Kancheepuram Workshop. Even at the time of appointment, the petitioner possessed S.S.L.C. qualification. Hence, the petitioner made a representation, dated 01.12.2014 to appoint him as Junior Assistant. But his representation was rejected by an order dated 07.01.2015.

Challenging the said order, the petitioner has come up with this writ petition.

2. When the matter came up for admission on 09.04.2015, this Court directed the learned Senior Counsel for the petitioner to produce relevant materials to establish that the petitioner possessed the required qualification for the post of Junior Assistant even at the time of his initial appointment as Watchman.

3. Today, the learned Senior Counsel for the petitioner filed additional typed set of papers, enclosing SSLC Certificate of the petitioner to show that he passed SSLC in April March 1991.

4. The second respondent gave written instructions dated 22.04.2015 to the learned Special Government Pleader and the same is placed before this Court.

5. Heard both sides.

6. Both in the impugned order as well as in the written instructions to the Special Government Pleader, it is the stand of the department that the petitioner himself expressed his willingness to work as Watchman on compassionate ground and in future, he would not claim appointment to the post of Junior Assistant on compassionate basis. This is the only reason for rejecting his request to consider him for the post of Junior Assistant, whenever vacancy arises.

7. The learned Senior Counsel for the petitioner would contend that since the petitioner expressed his willingness to work as Watchman, he could not be denied appointment to the post of Junior Assistant, whenever vacancy arises, particularly, when he possess the required qualification. Reliance was placed on the order dated made in W.P.No.24504 of 2013 dated 18.09.2013. In similar circumstances, this Court issued a direction to the respondents to consider the case of the petitioner for appointment to the post of Junior Assistant.

8. However, the learned Special Government Pleader would submit that this Court could not deprive other persons, who are in the waiting list for appointment to the post of Junior Assistant.

9. As rightly contended by the learned Senior Counsel for the petitioner, the petitioner could not be denied appointment to the post of Junior Assistant, simply because, he expressed his willingness to work as Watchman. Hence, the impugned order is liable to be set aside.

10. In the result, the impugned order is set aside. The petitioner shall be appointed to the post of Junior Assistant under the vacancy that would arise in future. However, it is made clear that the petitioner's claim should be considered, after considering the claim of persons, who are in the waiting list prior to the petitioner.

11. The writ petition stands allowed to the extent indicated above. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Secretary to Government,
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The Tamilnadu Motor Vehicle Maintenance Department,
Velachery, Chennai - 600 042.
- 3.The District Collector,
Kanchipuram District,
Kanchipuram.

+ 1 cc to Mr.V.Srinivasan Advocate SR.22349
+ 1 cc Government Pleader Sr.22503

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rj (co)
pmk.11.5.2015

सत्यमेव जयते

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