

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.Nos.32325 of 2014 & 3212 of 2015
& M.P.Nos.1 & 2 of 2014

W.P.Nos.32325 of 2014

P.Subramaniyan

.. Petitioner

Vs.

- 1.The Secretary to Government,
Ministry of Law and Justice,
Department of legal Affairs,
No.439-A, Sastri Bhavan,
New Delhi-110 001.
- 2.The Deputy Legal Advisor and Competent
Authority, Department Authority,
Department of Legal Affairs,
No.439-A, Sastri Bhavan,
New Delhi.
- 3.The Branch Secretary,
Ministry of Law and Justice,
3rd Floor, Sastri Bhavan Annex,
26, Haddows Road,
Chennai.

4.R.Sundaravalli

... Respondents

W.P.No.3212 of 2015

S.Veerasamy

.. Petitioner

Vs.

- 1.Government of India,
Rep., by its Secretary,
Law & Justice Department,
Government of India,
4th Floor, "A" Wing,
Shastri Bhavan,
New Delhi-110 001.
- 2.The Assistant Legal Advisor,
and Competent Authority (Notaries),

Ministry of Law & Justice,
Government of India,
4th Floor, "A" Wing,
Shastri Bhavan,
New Delhi-110 001.

.. Respondents

Prayer: Petition in W.P.No.32325 of 2014 is filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records culminating into the impugned order dated 21.10.2014 in F.No.5A (130)/2013-NC recommended by the 3rd respondent, quash the same as illegal and consequently, direct the respondents 1 and 2 to conduct fresh interview for appointment of Notary Public, Government of India including the petitioner.

Prayer: Petition in W.P.No.3212 of 2015 is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the first respondent to appoint the petitioner as Notary Public.

For Petitioner ... Dr.P.Vasudevan
in WP 32325/2014

WP 3212/2015 .. Mr.R.Dhanapalraj

For Respondents ... Mr.Su.Srinivasan,
Assistant Solicitor General of India
for R1 to R3 in WP.32325/2014 & R1 & R2
in WP 3212/2015

COMMON ORDER

The petitioners are two practising Lawyers seeking to challenge the impugned proceedings dated 21.10.2015 in one case and seeking direction to appoint as Notary Public in other case.

2. As the issue involved in these writ petitions is one and the same, they have been taken up together and disposed of by way of a common order.

3. The learned counsel appearing for the petitioner in W.P.No.32325 of 2015 has submitted that the petitioner has put in more than 30 years of practice and he also belongs to Schedule Caste community.

4. The learned counsel appearing for the petitioner in W.P.No.3212 of 2015 has submitted that though the petitioner was working as an employee of Port Trust, he obtained voluntary retirement due to ill health. Now, he is practising as a Lawyer for the past 9 1/2 years. He further submitted that he has satisfied the required parameters.

5. Both the learned counsels submitted that there is no rationale and procedure followed in the selection process.

6. The learned Assistant Solicitor General of India, based upon the counter affidavit, submitted that about 968 candidates were called for an interview for appointment to the post of Notary and 170 candidate were recommended by the Interview Board, taking into consideration of various factors on the basis of guidelines with reard to SC/ST, OBC., Senior Citizens, Woman, Physically handicapped persons, etc., and 21 persons from Scheduled Caste Community were selected. The vacancies were filled up as per the impugned order dated 21.10.2014. Adequate representation has been given to the different sections including the Scheduled Caste and Scheduled Tribe community. The Interview Board consists of Chairman, Joint Secretary and Legal Advisor. The Joint Secretary and legal Advisor as a Chairman and Assistant Legal Advisor as a Member, as per the Rule 7A(2) of the of the Notaries (Amendment) Rules 2009. Thus, in the absence of any mala fides, no interference is required.

7. Though the power of judicial review in the matter is limited, considering the facts of the case, particularly, the petitioner in W.P.No.32325 of 2014 has put in 30 years of service and the petitioner in W.P.No.3212 of 2015 has satisfied all the parameters coupled with the further fact that there is no communication on their lack of eligibility, this Court is inclined to issue a direction to the third respondent in W.P.No.32325 of 2014, viz., the Branch Secretary, Ministry of Law and Justice, Chennai, to consider the case of the petitioners positively in the ensuing vacancies, which are sought to be filled up. The petitioners are at liberty to apply for the ensuing vacancies. The third respondent is further directed to notify the ensuing vacancies within a period of three months from the date of receipt of a copy of this order.

8. Both the writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

raa

To

- 1.The Secretary to Government,
Ministry of Law and Justice,
Department of legal Affairs,
No.439-A, Sastri Bhavan,
New Delhi-110 001.
- 2.The Deputy Legal Advisor and Competent
Authority, Department Authority,
Department of Legal Affairs,
No.439-A, Sastri Bhavan,
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- 3.The Branch Secretary,
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- 4.The Secretary, Government of India,
Law & Justice Department,
Government of India,
4th Floor, "A" Wing,
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New Delhi-110 001.
- 5.The Assistant Legal Advisor,
and Competent Authority (Notaries),
Ministry of Law & Justice,
Government of India,
4th Floor, "A" Wing,
Shastri Bhavan,
New Delhi-110 001.

+1 cc to Mr.Su.Srinivasan, Advocate, sr.56103
+1 cc to Mr.R.Dhanapalraj, Advocate, sr.55856
+1 cc to Dr.P.Vasudevan, Advocate, sr.55827
+1 cc to Mr.A.M.Krishnamoorthy, Advocate, sr.56383

W.P.Nos.32325/2014
& 3212/2015

ap co
kra 29/10/2015

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