

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2015

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.4083 of 2015
and MP.Nos.1 and 2 of 2015

K.Durai

... Petitioner

Vs.

1.The Commissioner
Directorate of Technical Education
Guindy, Chennai- 600 025.

2.The Principal
Government Polytechnic College,
Nagapadi, Chengam Taluk,
Tiruvannamalai - 606 705.

3.The District Employment Officer,
Tiruvannamalai,
Tiruvannamalai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the second respondent to consider his claim for appointment to the post of Skilled Assistant Grade-II by following Rule 12(d) of the Tamil Nadu State and Subordinate Service Rules after getting the revised list from the 3rd respondent.

For Petitioner : Mr.R.Rengaramanujam.

For Respondents : Mr.S.Gunasekaran, GA.

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O R D E R

The case of the petitioner is that he belongs to Schedule Caste community and he completed SSLC in October 1987 and Higher Secondary Course in March 1991, National Trade Certificate in the Trade of Machinist in July 1993, National Apprenticeship Training in the Trade of Machinist in the year 1995, Craft Instructor Training in the Trade of Machinist at Central Training Institute for Instructor Guindy in the year 1996.

2.The petitioner further state that he completed Diploma in Mechanical Engineering in October 2009 and he is now

undergoing BE in Mechanical Engineering in Thanthai Periyar Government Engineering College on part time basis. The second respondent/Government Polytechnic college was established in the year 2011, since there was no sanction for the post of Skilled Assistant, applications have been called for appointment on daily wage basis. The petitioner applied for the said post by virtue of his ten years teaching experience in private self financing ITI and Polytechnics. He was further selected and appointed to the post of Skilled Assistant in the Mechanical Laboratory on 04.02.2011 on consolidated salary of Rs.4,000/- per month.

3.The petitioner would further claim while he was working as Skilled Assistant Grade-II, he was appointed to the post of Workshop Instructor on an hourly salary basis at the rate of Rs.100/- per hour from May 2012 to April 2014. The petitioner was handling classes for 1st year, 2nd year and 3rd year Diploma Course in Mechanical Engineering and Workshop Practical courses.

4.The Higher Education Department of the government of Tamil Nadu in GO.No.141, dated 08.06.2010 and GO.No.139, dated 18.07.2012 sanctioned 19 posts in the categories of Skilled Assistant Grade-II and Laboratory Assistant in the Trades of Fitter, Electricians, Machinist, Motor Mechanic (vehicles) and Surveying. The second respondent called for list of eligible candidates for making selection for appointment of the said posts. The petitioner was eligible for sponsorship by third respondent from whom the list of eligible candidates has been called for by the second respondent.

5.The grievance of the petitioner is that when he approached the third respondent he was informed that he crossed the upper age limit for the post of Skilled Assistant Grade-II. As per Rule 12(d)(i) of the General Rules of Tamil Nadu States and Subordinate Service Rules, the petitioner is eligible to be sponsored by the third respondent. Since his claim was not considered, he submitted his representation to the respondents on 13.02.2015 and the same is not yet considered favourably.

6.The respondents has filed counter affidavit stating that the provisions of General Rules of Tamil Nadu State and Subordinate Service Rules is not applicable to the present post. As per Rule 6(a) of Tamil Nadu Technical Educational Subordinate Service Rule, five years age relaxation is available to the candidates belongs to Scheduled caste and Scheduled Tribes. As the petitioner has already exceeded the upper age limit of 40years and he is not eligible for the said post.

7.The learned counsel for the petitioner relying upon the unreported judgments of this Court in WA.No.981 of 2009 dated 19.04.2010 and WP.No.19596 of 2014 dated 12.08.2014 and the

decision of this Court reported in CDJ 2014 MHC 4928 - S.Lawrence V. The Commissioner and another would contend that the Special Rule is not applicable in view of Rule 12(d)(i) of the General Rules of Tamil Nadu State and Subordinate Services Rules.

8.The learned Government Advocate would submit that when the Special Rule is applicable to the present case, the respondents cannot rely on the General Rules. The Special Rule will prevail over the General Rules.

9.In the judgments relied on by the learned counsel for the petitioner, this Court has taken a consistent view that as per Rule 12(d)(i) of General Rules of Tamil Nadu State and Subordinate Services Rules, the Special Rule shall not apply to the appointment of candidate belonging to any of the Scheduled castes, Scheduled Tribes, Backward classes, Most Backward classes and Denotified communities or of destitute widows of all castes to a post included in a service for which the Special Rules prescribe a qualification, which is higher than that referred to in Sub rule(a) and he is otherwise qualified for appointment.

10.Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances, permits the petitioner to submit one more representation to the respondents by enclosing a copy of this order as well as copies of his earlier representations and the decisions relied on by the petitioner within a period of two weeks from the date of receipt of a copy of this order. The respondents on receipt of the same is directed to consider the said representation on merits and in accordance with law, in the light of the above said decisions and pass appropriate orders within a period of eight weeks thereafter and communicate the decision taken to the petitioner.

11.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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+1 cc to Mr.Rengaramanujam, Advocate, sr.61260
+1 cc to Government Pleader, sr.61398

W.P.No.4083 of 2015

ar co
kra 23.11.2015



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