IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

WRIT PETITION NO.19076 OF 2010

& MP.NOS.1 AND 2 OF 2010

Mr.V.Anbuvalavan

...Petitioner

Vs

1. The State of Tamilnadu, rep.by its
   Secretary, Labour & Employment
   Department, Fort.St.George, Chennai-9.

2. National Employment Services,
   Directorate of Employment & Training
   Guindy, Chennai-32.

3. The District Collector, District Collector
   Office, Ariyalur District.

4. The District Employment Officer,
   District Employment Office,
   Ariyalur District.

...Respondents

PETITION filed under Article 226 of The Constitution of India seeking to issue of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Government letter No.33413/T2/2009-3 dated 2.2.2010 and consequential order passed by the second respondent in Ma.Ve.Su.No.6/2010 dated 6.4.2010 and letter sent by the fourth respondent in A2/1483/2010 dated 2.6.2010, quash the same and consequently direct respondents 3 and 4 to register the name of the petitioner in the employment register under the priority category of 'grandson of freedom fighter' with all consequential benefits flowing out of the said registration.

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For Petitioner : Mr.V.V.Giridhar
For Respondents : Mr.L.S.M.Hasan Fizal, GA

O R D E R

The petitioner has come up with the above writ petition, challenging the Government letter No.33413/T2/2009-3 dated 2.2.2010

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and consequential order passed by the second respondent in dated 6.4.2010 and letter sent by the fourth respondent dated 2.6.2010 and for a direction to the respondents 3 and 4 to register his name in the rolls of the Employment Exchange under the priority category of "grandson of freedom fighter".

2. We have heard Mr.V.V.Giridhar, learned counsel for the petitioner and Mr.L.S.M.Hasan Fizal, learned Government Advocate appearing for the Respondents.

3. The petitioner is a Post Graduate in Science and an Under-Graduate in Education. He has registered his name in the Rolls of the Employment Exchange way back in 1999. Claiming that his grand-father was a Freedom fighter, the petitioner sought to get his name registered on priority basis. But after directing the petitioner to get a certificate of Legal heirship from the Tahsildar, the fourth respondent rejected the request on the ground that there is no priority accorded to the grand-children of Freedom fighters. Therefore, the petitioner is before this Court.

4. The petitioner has not produced any Government Order or Executive Instructions to show that the grand-children of Freedom fighters are accorded priority in the matter of employment. On the contrary, the Government had issued a letter bearing No.33413/T2/2009-3, Labour and Employment dated 2.2.2010 to the effect that no such priority can be granted. The said letter is under challenge.

5. Reservation for the children of freedom fighters in the matter of public employment, cannot be traced to the provisions of the Constitution. Any priority accorded to the grandchildren of freedom fighters in the matter of public employment, is by way of Executive Instructions only. Therefore, the petitioner will have to succeed or fail only on the strength of any provision contained in any scheme. In the absence of a scheme providing for according priority to the grandchildren of the freedom fighters, the petitioner cannot make any claim. The decision of the Full Bench of this Court in Aarthi M (Minor) vs. State of Tamil Nadu [2002 (4) CTC 449] will not go to the rescue of the petitioner, since the Full Bench was concerned in that case with a provision made in the prospectus for admission to Medical Colleges. In other words, the whole dispute in that case arose out of a provision contained in the prospectus.

6. Moreover, in a decision in T.T.Saravanan vs. State of Tamil Nadu [2004 (5) CTC 704] Prabha Sridevan, J, pointed out that what applies to the children of Freedom fighters need not apply to grand-children. Therefore, the claim of the petitioner cannot be accepted.

7. Heavy reliance is placed by the learned counsel for the

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petitioner on the judgment of another learned Judge of this Court in S.Sree Nirajanaa Bose vs. Government of Tamil Nadu [W.P.(MD) No.5050 of 2009 dated 24.9.2009], wherein the learned Judge was considered with the validity of a Government Order taking away the benefit already made available to the grand-children of Freedom fighters. But the said decision is of no assistance to the petitioner. In that case, a benefit which was earlier made available was taken away by a Government Order. In this case no benefit was ever made available to the grand-children of the Freedom fighters. Therefore, the reliance placed on the said decision is of no avail. 8. Hence, the writ petition is dismissed. There will be no order as to costs. Consequently, M.P.Nos. 1 and 2 of 2010 are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

gr.

To

1. The Secretary, Labour & Employment Department, Fort.St.George, Chennai-9.
2.The National Employment Services, Directorate of Employment & Training
Guindy, Chennai-32.
3. The District Collector, District Collector Office, Ariyalur District.
4. The District Employment Officer, District Employment Office, Ariyalur District.

1 cc to Government Pleader,Sr.No.12337

W.P.No.19076 of 2010

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