

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Writ Appeal No.1263 of 2015

C.R.Murugan

..Appellant/petitioner

Vs

1. The Secretary to the Government
State of Tamil Nadu
Transport Department
Fort St.George, Chennai-600009

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

3. The District Collector
Vellore District
Vellore

..Respondents/Respondents

Prayer : Writ Appeal filed against the order dated 23.04.2015 passed in W.P.No.10247 of 2015. Petition filed under article 226 of the constitution of India for the issuance of writ of certiorari mandamus, to call for the records of the second respondent made in Na.Ka.No.A2/14715/2014 dated 24.12.2014 and to quash the same and consequently directing the respondents to appoint the petitioner to Post of Junior Assistant in terms of Clause 2(iii) of G.O.Ms.No.1499 Labour and Employment (Q1) Department dated 3.8.1989 in any of the office of the respondents Workshop/ Office or in any office coming within the jurisdiction of 3rd respondent.

For Appellant :: Mr.M.Kalyanasundaram,
Senior Counsel
for Mr.D.Ravi

For Respondents:: Mr.P.S.Sivashanmuga Sundaram,
Spl.G.P.

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

Heard Mr.M.Kalyanasundaram, learned Senior Counsel appearing for the appellant and Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing for the respondents.

2. The appellant herein/writ petitioner filed W.P.No.10247 of 2015 seeking to quash the order of the second respondent dated 24.12.2014, and for a direction to appoint the petitioner to the post of Junior Assistant in terms of Clause 2 (iii) of G.O.Ms.No.1499 Labour and Employment Department dated 03.08.1989.

3. The learned Single Judge, after considering the contentions of the petitioner, by order dated 23.04.2015, pointed out that the Writ Petitioner was initially appointed as Sweeper and the petitioner himself expressed his willingness to work as Sweeper on compassionate ground, but possess SSLC certificate and the petitioner could not be denied appointment to the post of Junior Assistant, simply because, he expressed his willingness to work as Sweeper and quashed the impugned order.

4. The learned Single Judge, further in paragraph No.10, held as under:-

"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."

5. The learned Senior counsel appearing for the appellant has drawn the attention of this Court to the order passed by a Division Bench of this Court in W.A.No.1262 of 2015 dated 26.08.2016, wherein, under similar circumstances, this court, in paragraph No.5, held as under :-

" 5. On perusal of the entire records, we are of the view that the

learned Single Judge has already considered the case of the appellant/writ petitioner in proper perspective. Of course, the G.O., referred to above prescribes that a dependant appointed to a lower post like Record Clerk, Office Assistant and Sweeper on compassionate grounds but possess the qualification required for the post of Junior Assistant at the time of initial appointment to a lower post may be appointed as Junior Assistant/Typist. But, the words 'may be appointed' do not equate with the words 'shall be appointed' and hence, it is only discretionary on the part of the appointing authority and not a mandate. Rules prescribed for appointment and seniority also need to be taken care for granting appointment on compassionate grounds."

6. Following the same, the Writ Appeal stands disposed of on the same lines with a direction to the respondents to consider the case of the appellant, for the vacancy that would arise in future, as per his entitlement. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

- 1.The Secretary to the Government
State of Tamil Nadu
Transport Department
Fort St.George
Chennai-600009

WEB COPY

2.The Director

The Tamil Nadu Motor Vehicle Maintenance Department
Velachery, Chennai-600 042

3.The District Collector

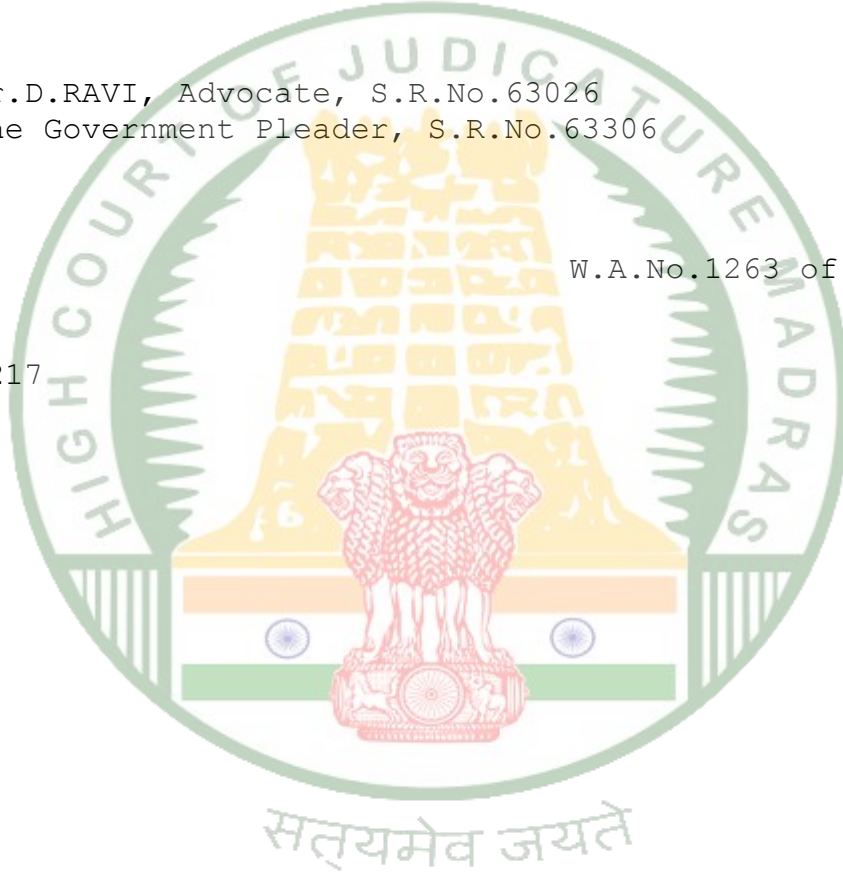
Vellore District
Vellore

+1cc to Mr.D.RAVI, Advocate, S.R.No.63026

+1cc to the Government Pleader, S.R.No.63306

W.A.No.1263 of 2015

CO (SKV)
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