

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUDHAKAR

AND

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

WRIT PETITION No.19758 of 2014

K.S.Shanmugam

... Petitioner

Vs.

1. The Registrar,
Central Administrative Tribunal,
Madras Bench,
High Court Buildings,
Chennai 600 104.
2. The Union of India,
rep. by the Chief Post Master General,
Tamil Nadu Postal Circle,
Anna Salai, Chennai 600 002.
3. The Director of Postal Services,
Chennai City Region,
O/o. Chief Post Master General,
Tamil Nadu Circle, Chennai - 2.
4. The Senior Superintendent of Post Offices,
Vellore Division,
Vellore, Vellore District.

5. G.Vadivel

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records on the file of the Central Administrative Tribunal, Madras Bench in respect of their order dated 28.04.2014, passed in O.A.No.1118 of 2011, and quash the same and direct the respondent 4 to appoint the petitioner as Postman in the place of the 5th respondent.

For Petitioner : Mr.K.S.Gnanasambandan

For R2 to R4 : Mr.V.T.Balaji,
Central Govt. Standing Counsel

O R D E R

(Order of the Court made by S.VAIDYANATHAN,J.)

The petitioner has come forward with this Writ Petition challenging the order dated 28.04.2014 passed by the 1st respondent/Central Administrative Tribunal, Madras Bench in O.A.No.1118 of 2011 and for a direction to the respondents/Postal Department to appoint him as a Postman in the place of the 5th respondent.

2. According to the petitioner, he was appointed as Extra Departmental Telegraphs Messenger at Katpadi Post Office in Vellore Postal Division on 19.04.1982. Subsequent to the withdrawal of Telegraph facilities in post offices, the petitioner was posted as Gramin Dak Sevak/Mail Deliverer (GDS-MD) at Senur Branch Post Office under the accounts jurisdiction of Gandhi Nagar Post Office in Vellore Postal Division, Vellore, from 16.06.2007 to 14.03.2012. From 15.03.2012, the petitioner was working as a Multi Tasking Staff, Vellore Postal Division, Vellore, which post is exclusively reserved for SC/ST. While so, an official notification vide No.B2/PM/Exam 2011, dated 24.01.2011 was issued by the Senior Superintendent of Post Offices, Vellore Division, calling for applications from eligible Gramin Dak Sevak/Mail Deliverers for promotion to the cadre of postman on the basis of Seniority-cum-fitness, and on merit basis through competitive examination.

3. He has further stated that the 5th respondent-G.Vadivel was selected by the Screening Committee and an order was issued to that effect by the 4th respondent viz. the Senior Superintendent of Post Offices, Vellore Division, vide proceedings in Memo No.B2/PM Exam II(i) dated 28.03.2011. Aggrieved by the same, the petitioner sent a representation to the Director of Postal Services, Chennai City Region, Chennai-2, stating that selecting G.Vadivel was illegal and the petitioner being a senior ought to have been selected to the post of Postman. The Superintendent of Post Offices, Vellore Division, Vellore, the 4th respondent herein, by proceedings dated 01.06.2011 vide No.B2/PM Exam/2011(i) communicated the same to the petitioner that though he is senior to the 5th respondent-G.Vadivelu, he could not be selected as he had not fulfilled the age criteria, since he had crossed 50 years as on 01.07.2011. Though, the petitioner marked his representation to the Director of Postal Services, Chennai City Region, Chennai, the order dated 01.06.2011 was passed by the Superintendent of Post Offices, Vellore Division and a copy was marked to the Director of Postal Services. Aggrieved by the selection of the 5th

respondent and rejection of his representation, the petitioner filed O.A.No.1118 of 2011 in the Central Administrative Tribunal, Madras Bench, challenging the proceedings of the 4th respondent, dated 28.03.2011 and 01.06.2011. Since the said Original Application got to be dismissed, the petitioner has come up with the present Writ Petition.

4. Heard Mr.K.S.Gnanasambandan, learned counsel for the petitioner and Mr.V.T.Balaji, learned Central Government Standing Counsel appearing for respondents 2 to 4.

5. Learned counsel for the petitioner would strenuously contend that the whole exercise of the respondents to select the 5th respondent/G.Vadivel is arbitrary, colourable exercise of power and violation of the principles of natural justice. It is also his contention that

the crucial date eligibility of the age criteria cannot be a date after notification and after selection and appointment.

6. In reply, learned Central Government Standing Counsel appearing for respondents 2 to 4 would submit that for the vacancies earmarked for GDS seniority quota for selection to the cadre of Postman, the Departmental Selection Committee considered the eligibility of senior GDS against the notified vacancies and the averment of the petitioner that the 5th respondent was selected overlooking his seniority is not correct.

7. It is the case of the petitioner that he is a senior-most candidate and when there is neither any adverse remark nor any punishment or charge memo pending against him, he should have been selected as a postman instead of his junior Vadivel. When the notification dated 09.09.2009 specified the crucial date as 01.07.2009 with regard to the age limit, the fixing of 01.07.2011 after the completion of selection process as the cut-off date is arbitrary. He submitted that the crucial date fixed by the respondent after the selection is liable to be set aside.

8. While so, it is the case of the respondents/Postal Department that the examination for promotion/selection to the cadre of postman under departmental quota and direct recruitment quota of vacancies of 2010 held on 17.04.2011 was notified by the 3rd respondent as per the order issued by the Office of the Postmaster General in letter dated 20.01.2011. The vacancies were directed to be filled up as per the Rules and the vacancies in the postman cadre as regards Vellore Division under direct recruitment quota was five, out of which, 3 vacancies on GDS (2 UR and 1 SC) on GDS Seniority and 2 vacancies on GDS merit. According to them, under the Direct Recruitment Quota, 50% of

the vacancies will have to be earmarked for considering selection of eligible GDS based on length of service. As per the Recruitment Rules for Postman as well as by the Postal Directorate letter dated 28.08.1990, the crucial date for determining the age condition for eligibility for considering GDS for selection is 1st July of the year of Examination and not the year of vacancy. The notification for the Postman examination was issued on 24.01.2011 and as regards the age limit, the following conditions are mentioned:

UR vacancies (Open Quota):	50 years as on 01.07.2011
OBC Quota	: 53 years as on 01.07.2011
SC/ST Quota	: 55 years as on 01.07.2011

9. The Departmental Selection Committee which met on 24.03.2011 after considering the records selected 2 GDS who belong to OBC under UR quota and 1 under SC quota for Vellore Division. The two GDS candidates were well within the age limit of 50 years as on 01.07.2011, whereas, the petitioner whose date of birth is 05.04.1961 has crossed the age limit of 50 years as on 01.07.2011. Relaxation was applicable only against reserved vacancies and not for Unreserved vacancies.

10. The respondent accepted the contention of the petitioner that even though the 5th respondent Vadivel is junior to the petitioner, his name was considered for selection as he was well within the age of 50 years. Citing the Notification dated 09.09.2009 issued by the Dharmapuri Division for recruitment carried out in the year 2009 for the vacancies of 2006 and 2007, the petitioner claims that he is eligible as per the Notification. Further, based on the recommendations of the Departmental Selection Committee, which met on 24.03.2011, the 3rd respondent communicated the selection of 3 GDS on seniority basis vide Memo dated 28.03.2011, against which, the petitioner made a representation dated 05.04.2011, to which the 4th respondent passed an impugned order dated 01.06.2011 stating that the petitioner is senior to the 5th respondent/Vadivel and that due to non-fulfillment of condition of age as on 01.07.2011, he cannot be considered against the unreserved quota.

11. The Tribunal, by a well-considered order, took note of the notification dated 20.01.2011 for Vellore Division for filling up the vacancies in the cadre of Postman, both for direct recruitment and departmental quota, prescribing the age limit as 50 years as on 01.07.2011 for UR vacancies, 53 for OBC quota and 55 years for SC/ST. The petitioner's date of birth is 05.04.1961 and as he has crossed the age of 50 years as on 01.07.2011, he was found not eligible to be considered. As no

vacancy was earmarked under OBC category, no occasion arose for the respondents to consider him under the said category. Reliance placed by the petitioner on the Notification dated 09.09.2009 issued by Dharmapuri Division fixing the age limit of 50 years as on 01.07.2009 was not accepted, since the respondents issued the Notification in the year 2011 for the vacancies of the year 2010.

12. The petitioner belongs to OBC category as stated supra and that the petitioner has not satisfied the age limit for OBC as on 01.07.2011 (53 years). Hence, the Tribunal rejected the request of the petitioner and also observed that the petitioner's case has been considered to the cadre of Mult Tasking Staff (MTS) for the vacancies of 2011 under GDS seniority quota based on the new Recruitment Rules for MTS, according to which, the crucial date of fulfillment of service and age condition is 1st January of the year of vacancy. The petitioner has also been appointed as MTS, Virinjipuram SO with effect from 15.03.2012.

13. In view of the above, we do not find any error apparent on the part of the Tribunal in rejecting the request of the petitioner. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

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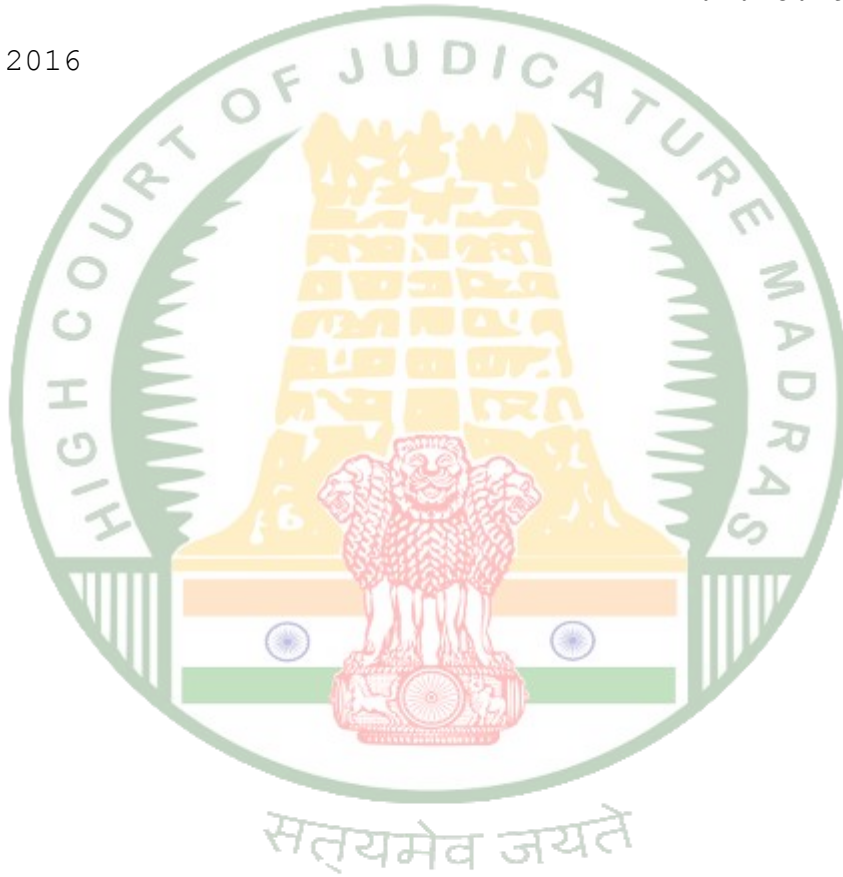
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+1 cc to Mr.V.T.Balaji, Advocate, sr.6479

W.P.No.19758 of 2014

gj co
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