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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

Writ Appeal No.45 of 2012

R.Parvathy
W/o.R.Palanisamy,
No.53, Nandanar Colony,
Palladam Road, Pollachi.

.. Appellant/5th Respondent

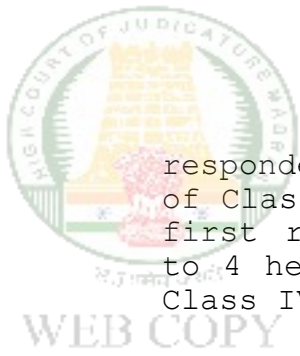
Vs.

1. R. Parvathi
D/o. Late Rangam
No.21, Pollachi Municipal Colony,
Palladam Road, Pollachi - 2.
2. Pollachi Municipality,
rep. By its Commissioner,
Pollachi.
3. The Assistant Director,
Office of the Employment Exchange,
Thandiyalur, Coimbatore - 29.
4. The Director of Municipal Administration,
Ezhilagam, Chennai - 5.
5. The State of Tamil Nadu,
rep. By Secretary to Government,
Municipal Administration,
Madras - 9.

..Respondents/Petitioners & Respondents 2 to 5

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 30.04.2009 passed in W.P.No.26303 of 2006 (O.A.No.No.5559/1996).

WP.NO.26303 OF 2006:- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent not to allow the fifth respondent herein from impersonating the petitioner in the Post of Class IV Woman Employee (Penn Peniyalar) and also to direct the Respondents 1 to 4 herein to take action against the fifth



respondent for impersonation the petitioner herein in the Post of Class IV Woman Employee (Penn Peniyalar) at the office of the first respondent and consequently, directing the Respondents 1 to 4 herein to permit the petitioner to discharge the duties as Class IV Woman Employee with the first respondent.

For Appellant : Mr.R.Munuswamy

For Respondents : Mr.S.Elamurugan, for R1
Mr.A.S.Thambuswamy, for R2
Mr.R.Ravichandran, for R3 to R5
Addl. Govt. Pleader

J U D G M E N T

(Delivered by S.VAIDYANATHAN,J.)

Challenging the order dated 30.04.2009 passed by the learned Single Judge of this Court in W.P.No.26303 of 2006, the 5th respondent in the said Writ Petition has come up with this appeal. The sum and substance of the issue is whether there is impersonation or not.

2. One R.Parvathi, D/o.Late Rangam, the 1st respondent herein filed a Writ Petition in W.P.No.26303 of 2006 seeking a direction to the Commissioner, Pollachi Municipality, Pollachi not to allow the appellant herein from impersonating her in the post of Class IV Woman Employee (Penn Paniyalar) and also a direction to respondents 1 to 4 therein to take action against the appellant herein for impersonating her and a subsequent direction to permit her to discharge the duties as Class IV Woman employee with the Pollachi Municipality.

3. According to the 1st respondent/writ petitioner, she registered her educational qualification with the Assistant Director, Office of the Employment Exchange, Thudiyalur Coimbatore District, on 14.06.2003 and was assigned with Registration No.541.20 with category No.W.4516/83. The Employment Exchange has periodically registered her employment registration. When certain vacancies arose in Class IV services of Pollachi Municipality, the name of the 1st respondent/writ petitioner was also sponsored by the Employment Exchange. By a communication dated 19.10.1990, the writ petitioner was called upon to appear for an interview on 26.10.1990 at 9.00 a.m. and accordingly, she appeared for the interview. It is the submission of the writ petitioner that the appellant/5th respondent was not called for any interview. As the writ petitioner was not served with any appointment order, she was under the bonafide impression that she was not selected in the interview held on 26.10.1990.



4. Thereafter, when the writ petitioner went to the office of the Employment Exchange in the last week of June 1993 and produced her employment card for renewal, the officials therein, after verifying the original records available with them, informed that her registration could not be renewed, as she had already been appointed in the office the Commissioner, Pollachi Municipality, based on the interview conducted on 26.10.1990. Immediately, when the writ petitioner approached the Commissioner, Pollachi Municipality and enquired about the selection made on 26.10.1990, she was not given any reply. Thereafter, on enquiry, she came to know that the Pollachi Municipality had issued appointment order to the appellant/5th respondent instead of the writ petitioner and allowed the appellant to discharge the duties in Class IV service. The writ petitioner also came to know that the appellant/5th respondent through her husband, who was a Councillor during the relevant period, had secured the appointment order fraudulently. Taking advantage of the fact that the writ petitioner and the appellant/5th respondent bear the same name "Parvathi", the appellant/5th respondent impersonated the writ petitioner. In this regard, the writ petitioner made a complaint to the Commissioner, Pollachi Municipality and requested them to take necessary action against the appellant/5th respondent. Since the complaints preferred by her did not yield any fruitful results, the 1st respondent herein approached this Court by way of a Writ Petition.

5. After going through the pleadings and the materials available on record and on hearing both sides, this Court allowed the Writ Petition in favour of the 1st respondent/writ petitioner. Relevant portion of the said order would read thus:

"12. As per Rule 7(a) of the Basic Service Rules, applicable to the Municipalities, no person shall be appointed to any of the posts in the service, if he has completed or will complete 30 years of age on first day of July of the year in which the selection for appointment is made. As per the Commissioner's letters in Rc.No.H5/8710/88, dated 15.05.1990 and 26.09.1990, the age of the applicant to the Last Grade Service (Class IV) should be within 18 to 30 years. Perusal of the files discloses that the year in which the fifth respondent was born is 1960. As per the Service Rules, the fifth respondent should not have completed 30 years of age as on first July of the year, in which, the selection for appointment was made. By applying the said cut off date for determining the age limit,



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the fifth respondent was aged 30 years, four months and 24 days on the date of interview and exceeded the maximum age prescribed for the post. Though the fifth respondent had not produced any supporting document to prove her age, the employer seemed to have obtained a Medical Certificate from the fifth respondent, as if she is with the maximum age limit, so as to make her eligible for Group IV posts. The date of birth mentioned in the service register has been erased and altered as 01.07.1961.

....

13. Perusal of Pages 1 and 2 of the Service Register shows that against the Column, Date of Birth, the Date of Birth originally written has been erased and altered as 01.07.1961, as per the Medical Certificate given by the Medical Officer, Government Hospital. The Educational qualification has also been altered as literate. However, no officer has counter signed the alteration of Date of Birth and Educational Qualification in the Service Register. At page 2 of the Service Register, the father of the fifth respondent has been shown as "Rengan", residing at No.53, Nandanar Village, Palladam Taluk, Pollachi, Coimbatore, whereas in the sponsorship letter of the Assistant Director of Employment Exchange, dated 01.10.1990, the names of the fifth respondent's father and husband are shown as "Palanisamy". Therefore, there is absolutely no possibility to say that the entries have been inadvertently made in the service register. When the employment particulars clearly show the name of the fifth respondent's father as "Palanisamy", affixing her initial as "R" in the service register, by saying that her father's name is "Rengan", is a clear case of fraud of misrepresentation. There is a clear overwriting in the initial "R" at pages 1 and 3 of the Service Register. Xerox copy of the Community Certificate pasted in the Service Register issued by the Tahsildar, Pollachi, states that the name of the fifth respondent is R.Parvathy, wife of Palanisamy. The first page of the service register, does not contain the thumb impression of the fifth respondent, which is normally taken. Perusal of the service register shows that it has been issued to



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Smt.R.Parvathy, ORS Scheme, Health Section, Municipal Office on 05.12.1990 by the Pollachi Municipality on payment of Rs.12, remitted in Challan dated 06.06.2004. Though the nomination letter, dated 01.10.1990, clearly shows that the fifth respondent was born in the year 1960, alterations have been fraudulently made in the service register to show that the fifth respondent was well within the prescribed age limit. The fifth respondent, knowing fully well that her father's name is "Palanisamy", has signed the service register as "R.Parvathy", instead of "P.Parvathy". Thus, she is consciously aware of the entries made in the service register.

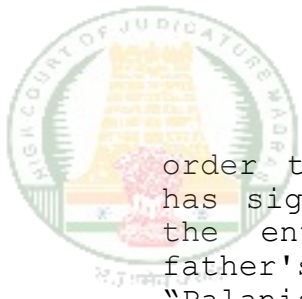
.....

18. Knowing fully well that she is not eligible to the post, the fifth respondent has secured employment and continue to work as if she is "R.Parvathy, D/o.Rengan" in the Municipality, committed a grave offence. Therefore, this Court is of the view that the fifth respondent has impersonated the petitioner and not entitled to continue in service. In view of the above, the respondents 3 and 4 are directed to take action against the fifth respondent for impersonation and consequently, the petitioner, who has been deprived of her legitimate right to secure employment and litigating since 1997, has to be provided with suitable employment in any of the Class IV employment of Pollachi Municipality within a period of six weeks from the date of receipt of a copy of this order."

6. Aggrieved by the above said order, the fifth respondent in the writ petition has filed this appeal.

7. Heard the learned counsel appearing on either side.

8. Admittedly, both the appellant herein and the writ petitioner bear the same name "Parvathy". It cannot be refuted that employment was given to the appellant/5th respondent in the office of Pollachi Municipality based on the Employment Registration number of the writ petitioner. In order to accommodate the appellant/5th respondent, who is the wife of the former Councillor of Pollachi Municipality, the appointment order, which was supposed to be issued to the 1st respondent/writ petitioner, was issued to the appellant/5th respondent and in



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order to rule out the illegality, the appellant/5th respondent has signed her name as "R.Parvathy" and she is fully aware of the entries made in the Service Register, mentioning her father's name as "Rengan", though her father's name is "Palanisamy".

9. After going through the records, the learned Single Judge has clearly observed that the appellant/5th respondent was not qualified to be appointed as Class IV Woman employee, as she has exceeded the maximum age prescribed for the notified post and that the writ petitioner was well within the age limit and fully qualified. A perusal of the Service Register of the appellant/5th respondent would clearly show that her date of birth has been erased and altered as 01.07.1961, based on the Medical Certificate given by the Medical Officer, Government Hospital. But, the nomination letter, dated 01.10.1990 sent by the Employment Exchange shows that the appellant/5th respondent was born in the year 1960.

10. Employment Exchange registers the particulars of a candidate only based on authentic documents. Hence, the particulars of the candidate given in their Sponsorship letter cannot be denied, as such. Careful scrutiny of the Service Register of the appellant with the nomination letter sent to her by the Employment Exchange would show that her father's name has also been changed in the Service Register. Though, in the Sponsorship Letter dated 01.10.1990 of the Assistant Director of Employment Exchange, the names of the appellant's father as also her husband is mentioned as "Palanisamy", page no.2 of the Service Register has got the entry showing the father of the appellant as "Rengan". As observed by the learned Single Judge, pages 1 and 3 of the Service Register would clearly show that there is an overwriting of the initial as "R". Further, the learned Single Judge has clearly observed in paragraph 13 of the order in the Writ Petition that even the photocopy of the Community Certificate pasted in the Service Register issued by the Tahsildar, Pollachi states the name of the appellant/5th respondent as "R.Parvathy, W/o.Palanisamy." It is pertinent to note that the thumb impression of the appellant/5th respondent is not found in the first page of her Service Register. Also, it is seen that the candidatures of some other persons have been rejected for non-production of age proof. But, in the case of the appellant/5th respondent, though she did not produce any Certificate to prove her age, the Municipality has scored off the entry "Certificate not produced" made at the time of interview and obtained a Medical Certificate later to show that the appellant/5th respondent was well within the prescribed age limit.



11. From the above, it is crystal clear that the appellant/5th respondent has consciously impersonated the 1st respondent/writ petitioner, by signing her name as "R.Parvathy", though as per the records maintained by the Employment Exchange, her father's name is "Palanisamy". But for the illegal appointment and the communication of the employer, viz, Commissioner, Pollachi Municipality, the name of the 1st respondent/writ petitioner would not have been struck off from the Live Register of the Employment Exchange.

12. Impersonation is a crime. It cannot be given a go-by in this case. Whoever be the offenders, they must not be left unpunished. In the case on hand, immediately on becoming aware of the impersonation by the appellant/5th respondent, the 1st respondent/writ petitioner approached the official respondents and requested them to take necessary action against the appellant/5th respondent and permit her to join duty and discharge her functions as Class IV employee. Since her efforts turned futile, she knocked the doors of justice way back in the year 1996 itself by filing an Original Application in O.A.No.5559 of 1996. The said application, by way of transfer, was taken up as Writ Petition No.26303 of 2006 and only by an order of this Court dated 30.04.2009, the efforts of the writ petitioner bore fruit. The impersonation by the appellant was unearthed by this Court and the writ petitioner, who has been deprived of her legitimate right to secure employment, was ordered to be provided with suitable employment in any of the Class IV employment of Pollachi Municipality. Thus, in view of the above, the Writ Appeal is liable to be dismissed.

13. The present appeal was filed on 19.01.2012 and it is almost four years now. Had the official respondents not provided suitable employment to the 1st respondent/writ petitioner so far, they should provide suitable employment to her forthwith. The Department/ Municipality is entitled to recover the amount from the appellant. An impersonator cannot claim wages on such alleged act. The case requires proper investigation by the law enforcement agency to book the culprits who were responsible and involved in the said acts of creating records, altering data, etc., thereby abetting impersonation.

14. With the above directions and observation, this Writ Appeal is dismissed, but with costs. The appellant is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to VIDYASAGAR (Formerly The Spastics Society of India), No.1, Ranjit Road, Kotturpuram, Chennai-600 085 on or before 7th June 2016.



15. Registry is directed to list this matter on 26.04.2016, for reporting compliance of the order passed by this Court.

aeb/sasi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To :

1. The Commissioner,
Pollachi Municipality, Pollachi.
2. The Assistant Director,
Office of the Employment Exchange,
Thandiyalur, Coimbatore - 29.
3. The Director of Municipal Administration,
Ezhilagam, Chennai - 5.
4. The Secretary to Government,
State of Tamil Nadu,
Municipal Administration, Madras - 9.
5. The Incharge,
Vidyasagar (Formerly The Spastics Society of India),
No.1, Ranjit Road, Kotturpuram, Chennai 600 085.
6. The Section Officer, Judicial Section,
High Court, Mds-104.

+ 1 cc to The Govt.Pleader, Sr 16669

+ 1 cc to Mr.R.Munuswamy, Advocate Sr 16844

+ 1 cc to Mr.A.S.Thambuswamy, Advocate Sr 16540

+ 1 cc to Mr.Y.Ramanaiah, Advocate Sr 16439

KR/15/4/16

W.A.No.45 of 2012