



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) .No.15797 of 2016
and
W.M.P. (MD) .No.11598 of 2016

P.Meena

... Petitioner

Vs

The Chief Judicial Magistrate,
Chief Judicial Magistrate,
Madurai.

... Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to the call for the records relating to the impugned order passed by the Respondent dated 26.07.2016 in D.No.70/05.08.2016 and quash the same and consequently direct the respondent to permit the petitioner to participate the interview for the post of Office Assistant in Madurai District Recruitment 2016.

For Petitioner :Mr.K.Sudalaiyandi
For Respondent :Mr.K.Samidurai

ORDER

[Order of the Court was made by

M.SATHYANARAYANAN, J.]

The petitioner would state that she had completed her higher secondary course in the year 2015 as a private candidate and got her qualification registered with the District Employment Office, in Chennai. The petitioner claims that she belongs to backward community. It is further stated by the petitioner that in the month of June, 2016 through the website, the District Court, Madurai, invited online applications from the candidates for



filling up various posts. Accordingly, she had applied through online on 02.09.2016 bearing application No.4347. As per the general instructions given in the application in respect of the candidates in Column No.16, it is stated as follows:-

"16 Age limit

- 1) O.C. (18 to 30 years)
- 2) B.C. & M.B.C. (18 to 32 years)
- 3) SC&ST (18 to 35 years)

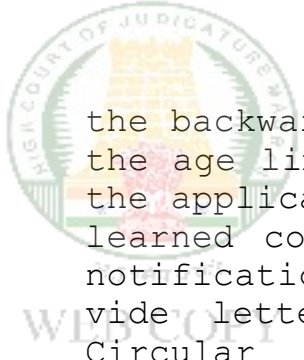
Physically handicapped candidates are eligible for 10 years age concession. No age limit for ex-servicemen for the post of Last Grade Government services.

- There is no age limit for the candidates' passed +2 and degree"

2. The petitioner was under the *bona fide* impression that since she had fulfilled all the eligibility criteria, she would be called for interview for the post, to which she applied for, from the respondent. But, to her shock and surprise, her application was rejected by the respondent stating that she had crossed the upper age limit. It is the claim of the petitioner on account of the impugned order her valuable right is taken away by the respondent, which is guaranteed under the Constitution of India. Hence, she came forward with the present Writ Petition.

3. Learned Counsel for the petitioner has drawn the attention of this Court to the typed set of papers and would submit that the selection process should be strictly in accordance with the advertisement and admittedly, in the advertisement, there is no age limit prescribed for plus two category. Therefore, the reason for rejection on the ground that she has crossed the age limit cannot be sustained and prays for interference.

4. *Per contra*, learned Standing Counsel appearing for the respondent has drawn the attention of this Court and would submit that the post for which the petitioner applied for falls under the Tamil Nadu Basic Service Rules. To fill up for the above-said post, as per Rule 4 of the Tamil Nadu Basic Service, the appointing authority called for a panel of names from the Employment Exchange concerned and also in the light of the judgment of this Court in W.A.(MD).No.1027 of 2013, dated 09.06.2014, applications were received from the open market by issuing advertisement and through the website. Following the notification dated 02.06.2016, applications were called for for the post of Masalachi, Night Watchmen and Office Assistant. It is the submission of the learned counsel for the respondent that in the said notification eligible age was not mentioned. However, as per Rule 5(1) of the Tamil Nadu Basic Service read with G.O.Ms.No.16 Backward and Most Backward Welfare Department dated 20.10.1993 as well as G.O.Ms.No.16 Backward and Most Backward Welfare Department dated 03.05.2002, the age limit prescribed for



the backward and most backward classes is 32 years and admittedly, the age limit of the petitioner, on the date of the submission of the application, is 38 years. It is the further submission of the learned counsel for the respondent that pursuant to the current notification dated 02.06.2016, the Deputy Director of Employment vide letter dated 09.06.2016 and 23.06.2016 has forwarded a Circular to the Department of Employment and Training in Ma.Ve.Su.Enn.8/2013 dated 29.08.2013 in which, it is specifically stated that Rule 12(d) of the Tamil Nadu State and Subordinate Service is not applicable to the Tamil Nadu Basic Service Rules and as such, the age limit prescribed for the Backward Classes and the Most Backward Classes is 32 years. In the light of the said provisions, the request made by the petitioner cannot be considered, as admittedly, she has crossed the age limit, on the date of applying for the post in question.

5. This Court has considered the rival submissions of the parties and perused the materials available before this Court.

6. No doubt, in the impugned advertisement, there is no age limit prescribed for the candidates who passed out plus two degree. However, it is to be pointed out at this juncture that the advertisement is merely an offer to participate in the selection process and the selection and recruitment are governed by Statute. In terms of Rule 5(1) of the Tamil Nadu Basic Service Rules read with the Circular of the Department of Employment and Training Ma.Ve.Su.Enn.8/2013 dated 29.08.2013, in which, it is categorically stated that the Tamil Nadu State and Subordinate Service Rules is not applicable to the Tamil Nadu Basic Service Rules. Admittedly, at the time of applying for the post in question, the petitioner was 38 years old and taking into account the said fact, her candidature was rightly rejected by the respondent. This Court, on a careful thorough consideration of the facts and circumstances and also the entire materials placed before us, comes to the conclusion that there is no infirmity nor irregularity in the impugned order and finds no merits in this Writ Petition.

7. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To:

The Chief Judicial Magistrate Court, Madurai.

+One cc to Mr.K.Sudalaiyandi, Advocate, SR.No.54820