



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.09.2016  
Delivered on : 28.09.2016

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**THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN**  
**AND**  
**THE HON'BLE Ms. JUSTICE V.M.VELUMANI**

W.P. (MD) No.18349 of 2016  
&  
W.M.P. (MD) Nos.13212 & 13213 of 2016

S.Meena

.. Petitioner

Vs.

1.The Principal District and Sessions Judge,  
Madurai District,  
District Court Complex,  
Madurai.

2.The Chief Judicial Magistrate,  
District Court Complex,  
Madurai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order issued by the second respondent, in Application No.6734, dated 26.07.2016, quash the same and consequently, direct the respondents to consider the appointment of the petitioner to the post of Office Assistant on the basis of her qualifications.

For Petitioner : Mr.P.Krishnasamy

For Respondents : Mr.D.Sivaraman

**ORDER**

**V.M.VELUMANI, J.**

This Writ Petition has been filed to call for records relating to the impugned order passed by the second respondent, dated 26.07.2016, in Application No.6734 and quash the same with the consequential direction to the respondents to consider the



appointment of the petitioner to the post of Office Assistant on the basis of her qualifications.

2. The facts of the case:

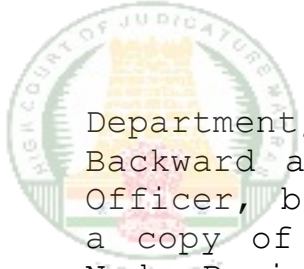
(i) The petitioner is a permanent resident of No.17-B/6, Ward No.2, Kamarajar Street, Kalliamman Kovil Street, Kombai Village and Post, Uthamapalayam Taluk, Theni District and belongs to Backward Community. She completed her S.S.L.C. during 1997 and +2 during March 1999. She was married to one Ramakrishnan and in the wedlock, one female and a male children were born. Her husband died on 28.01.2015. The petitioner obtained a certificate from the Revenue Divisional Officer, Uthamapalayam, that she is a destitute widow. She registered her name in the Employment Exchange on 23.02.2015 and her Register Number is THD2015/5F00000326 and her date of birth is 26.04.1982.

(ii) The second respondent, vide Notification dated 02.06.2016, called for applications for various posts in the Court. The petitioner applied for the post of Office Assistant and her application was registered as Application No.6734.

(iii) The second respondent by the impugned proceedings, dated 26.07.2016, rejected her application on the ground that she is over-aged. Therefore, she filed the present writ petition for the relief stated supra.

3. Mr.P.Krishnasamy, learned counsel appearing for the petitioner submitted that the petitioner belongs to Backward Class Community. The post of Office Assistant is covered under the Tamil Nadu Basic Services Rules. The Educational Qualification is fixed for the post of Office Assistant is pass in 8<sup>th</sup> Standard and also to read and write in Tamil. The petitioner is possessing +2 qualification. As per Rule 12(d) of Tamil Nadu State and Subordinate Service Rules, the age in respect of a person possessing higher educational qualification, can be relaxed and can be considered for appointment. Further, during the year 2001-2005, there was a ban in recruitment in Government service and the Government in G.O.(Ms)No.152, Personnel and Administrative Reforms (s) Department, dated 18.09.2006, relaxed the upper age limit by five years. Further, the Employment Officer has no power to fix the upper age limit for any post.

4. Per contra, Mr.D.Sivaraman, learned counsel appearing for the respondents submitted that the Tamil Nadu State and Subordinate Service Rules are not applicable to the post of basic servants and only the Tamil Nadu Basic Service Rules are applicable to the post of Office Assistant. As per Rule 5(1) and 5(2) of Tamil Nadu Basic Service Rules read with G.O.(Ms)No.71, 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. The Employment Officer, by his Letters dated 09.06.2016 and 23.06.2016, has sent a copy of Circular, which states as per Rule 5(1) of the Tamil Nadu Basic Service Rules and the Government Orders referred to above, upper age limit for Backward Class and Most Backward Class is only 32 years. Therefore, the second respondent has rightly rejected the application of the petitioner, as she is over-aged and prayed for dismissal of the writ petition.

5. We have carefully perused all the materials available on record and considered the arguments advanced by the learned counsel appearing for the parties.

6. The contentions of the learned counsel for the petitioner is that as per Rule 12(d) of the Tamil Nadu State and Subordinate Service Rules, if a person is possessing higher educational qualification than prescribed for the post, that person is entitled to age relaxation and can be considered for appointment. Further, there was a ban on appointment for five years from 2001-2005 and the Government vide G.O.(Ms)No.152, Personnel and Administrative Reforms (s) Department, dated 18.09.2006, relaxed the upper age limit by five years. These contentions are untenable and unacceptable.

7. The petitioner had applied for the post of Office Assistant. The said post is in basic service governed by Tamil Nadu Basic Service Rules. As per Rule 5(1) of the Tamil Nadu Basic Service Rules and G.O.(Ms)No.71, Backward and Most Backward Welfare Department, dated 20.10.1993 and G.O.(Ms)No.16, Backward and Most Backward Welfare Department, dated 03.05.2002, the upper age limit for Backward Class Community is only 32 years. The Deputy Director of Employment Department did not instruct the second respondent not to consider the candidates, who had completed 32 years of age. The Deputy Director has only brought to the notice of second respondent the relevant Rules and Circulars. Admittedly, the petitioner had completed 32 years of age and she is over-aged when she applied for the post of Office Assistant.

8. Further, the petitioner has no vested right to appoint her as Office Assistant. This issue was considered by us, vide order dated 16.09.2016, in W.A.(MD)Nos.861 and 1102 of 2015 and we upheld that a person has no vested right to seek a direction for appointment in a particular post. The very same issue challenging the impugned order passed by the second respondent, was considered by us in W.P.(MD)No.15797 of 2016 and W.P.(MD)No.17603 of 2016 and held that the similar orders passed by the second respondent is valid.

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9. For the above reasons, we hold that the writ petition is devoid of merits and liable to be dismissed and accordingly, the



same is dismissed. No costs. Consequently, W.M.P. (MD) Nos. 13212 and 13213 of 2016 are also dismissed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,  
Madurai District,  
District Court Complex,  
Madurai.

2. The Chief Judicial Magistrate,  
District Court Complex,  
Madurai.

+1cc to Mr. D. Sivaraman, Advocate Sr. No. 56810

JAM/14.10.16/GSV-PM/4p-4c

W.P. (MD) No. 18349 of 2016

&

W.M.P. (MD) Nos. 13212 & 13213 of 2016  
28.09.2016