



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2016

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.22916 of 2016

S.Ashok Kumar : Petitioner

Vs.

1. The State of Tamil Nadu rep. by
its Secretary,
Department of Rural Development and Panchayat Raj,
Fort St. George, Chennai - 600 009.

2. The Director of Rural Development,
Panagal Building, Saidapet,
Chennai - 600 019.

3. The District Collector,
Collectorate, Ramanathapuram,
Ramanathapuram District. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent in his proceedings in Na.Ka.V6/17920/2016, dated 16.11.2016 and to quash the same as illegal and consequently direct the third respondent to appoint the petitioner as Road Inspector Grade II.

For Petitioner : M/s.S.M.Anusha

For Respondents : Mr.M.Murugan
Government Advocate.

ORDER

This is a Writ of Certiorarified Mandamus challenging the order passed by the third respondent declining employment to the petitioner on the ground that the petitioner has crossed the upper age limit and also for a consequential direction to the third respondent to consider the case of the petitioner in the light of G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department,

<https://hcservices.courtsgov.in/hcservices>
dated 16.11.2016.

2.Heard the learned counsel appearing for the petitioner and



the learned Government Advocate, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3.0. The brief facts leading to the filing of this writ petition are as follows:

The petitioner has studied upto Higher Secondary and he also studied ITI in Draughtsman (Civil) and he has registered his qualifications in the District Employment Exchange, in the year 1999. The educational qualification for Road Inspector Grade II is an ITI Certificate in Civil Draughtsman from a Government Recognised Institute.

3.1. In the year 2006, when recruitment was made for filling up the vacant posts of 32 Road Inspectors Grade II in Ramanathapuram District, through G.O.Ms.No.739, Rural Development and Panchayat Raj (E3) Department, the petitioner was issued call letter for selection.

3.2. By means of G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department, dated 14.01.2008, relaxation of Rule 4(a) of the Tamil Nadu Panchayat Development Engineering Subordinate Service was granted and some of them, who crossed the age of 40 years, were also considered for appointment. During subsequent years, without getting the seniority list from the Employment Exchange and without giving proper public notification in the daily newspapers, the third respondent kept of many posts of Road Inspectors Grade II vacant. Even though the petitioner has attended the interview on 09.04.2015, he was not provided with employment and even though age relaxation has been given to some of the aspiring candidates, the case of this petitioner was not considered. Therefore, the petitioner filed W.P(MD)No.6532 of 2016 before this Court and by the order dated 09.09.2016, the writ petition was disposed of with a direction to consider the representation of the petitioner dated 14.03.2016. Even thereafter, the third respondent has passed an order stating that the petitioner has crossed the upper age limit and therefore he is ineligible for appointment to the post of Road Inspector Grade II. Therefore, this writ petition has been filed.

4. Apparently when some of candidates have been considered for appointment by relaxing the age by virtue of G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department, dated 14.01.2008, it is not known as to why the petitioner's case also should not be considered in the light of G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department, dated 14.01.2008. It is appropriate to quote Rule 54-B of the Tamil Nadu State and Subordinate Service Rules, which provides for age concession because of the persons affected due to the ban on direct services and the same is also extracted here-under for convenient reference:



"54-B.Age concession for persons affected due to the ban on direct recruitment:- Notwithstanding anything contained in the Special rules for the various State and Subordinate Services or in any adhoc rules applicable to any temporary post, in the case of a person who have been affected due to the ban on direct recruitment that was imposed on the 29th November, 2001, the upper age limit shall be raised to a maximum period of five years reckoned on and from the 17th July, 2006, ending with the 16th July 2011, in computing his age for appointment to any post under the State Government except the categories of posts of Teachers, Doctors and Police Constabulary and shall be applicable in respect of notifications issued or selections made by competent recruiting authorities or appointments made by competent appointing authorities during the aforesaid period".

5.Under such circumstances, the impugned order passed by the third respondent dated 16.11.2016 is set aside and the matter is remitted back to the third respondent and third respondent shall consider the representation of the petitioner dated 14.03.2016 in the light of G.O.Ms.No.13, Rural Development and Panchayat Raj (E3) Department, dated 14.01.2008 and also Rule 54-B of the Tamil Nadu State and Subordinate Service Rules and to pass orders on merits and in accordance with law, within a period of eight weeks, from the date of receipt of a copy of this order.

6.The writ petition is allowed on the above terms. No costs.

Sd/

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary, Department of Rural Development and Panchayat Raj, Government of Tamil Nadu, Fort St. George, Chennai - 600 009.
 - 2.The Director of Rural Development, Panagal Building, Saidapet, Chennai - 600 019.
 - 3.The District Collector, Collectorate, Ramanathapuram, Ramanathapuram District.
- +1cc to Special Government Pleader in SR.No.74789
- +1cc to M/S.S.M.ANUSHA, ADVOCATE SR.No.78583