



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.15159 of 2011

and

M.P (MD) Nos.1 and 2 of 2011

S.Paulraj : Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Virudhunagar.

3.The Tahsildhar,
Tiruchuli Taluk,
Virudhunagar District.

4.Karuppasamy

5.M.Muniasamy : Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the appointment of the Village Assistant post interview dated 27.09.2010 and quash the appointment of the 4th and 5th respondents in the list of appointment issued by the 3rd respondent as serial Nos.10 and 15 dated 10.01.2011 in SC non priority and direct the 3rd respondent to issue the order of appointment to the petitioner on the basis of the interview conducted on 27.09.2010.

For Petitioner : Mr.R.Ramasamy

For Respondents : Mr.S.Kumar A.G.P (for R1 to R3)
Mr.S.Visvalingam (for R4 and R5)

ORDER

The writ petitioner has challenged his non-selection to the post of Village Assistant. The writ petitioner was called for an interview on the basis of his employment seniority in the year 2007 and was not selected. Again, the respondents have called for appointment to the post of Village Assistant on 27.09.2010. The Employment Exchange has sponsored the petitioner's name as a



senior most in registration. The writ petitioner had appeared for interview on 27.11.2010 before the third respondent. Even in the selection, he was not selected and the third respondent without properly screening the candidates, without considering the employment seniority has arbitrarily selected them to the post. Accordingly, the 4th and 5th respondents came to be appointed to the post of Village Assistant in Kallathikulam and another village in Thiruchuli Taluk. Hence, the writ petitioner challenges the selection of the 4th and 5th respondents on the ground of violation of clause 6 and 7 of Tamil Nadu Village Assistants Special Rules issued in G.O.Ms.No.521, Revenue Department, dated 17.06.1998. The writ petitioner submits that out of the selected candidates, 9 candidates from Aruppukottai Taluk were appointed. Secondly, 5 persons, who have passed 10th Standard, were selected in violation of the qualification prescribed in the Rules, as the minimum qualification is a pass in 5th Standard and fail in 10th Standard. Thus, over qualified persons were selected. Thirdly, the petitioner is the senior most person in employment registration and in the verge of crossing age limit for appointment to the post of Village Assistant, overlooking his seniority and age, the third respondent has arbitrarily appointed the 4th and 5th respondents. The other point is that according to Rule 7, the other qualification prescribed clearly stipulates that the post shall be filled up by a person, who belongs to that village, and if no suitable person is available in the village, the persons from the adjacent village shall be appointed. Moreover, the petitioner belongs to Scheduled Caste community. Without considering all these points, the 3rd respondent had appointed the and 4th and 5th respondents, which is illegal.

2. The third respondent has filed a counter stating that the process of selection was conducted as per the Rules. The Employment Exchange had sponsored the candidates in the ratio of 1:5. As per the Rule 7 of the Rules, the petitioner should perform well in the interview conducted. But he did not perform well and he was rejected due to his poor performance.

3. It is also stated that allegation that selection of 9 candidates from Arupukkottai and Virudhunagar Taluks is against the Government Letter MS No.631 dated 07.11.2008 issued by the Principal Secretary to Government is not correct. The selection was made from priority quota candidates and therefore, that letter will not apply. Even assuming that letter will apply, it was quashed by this Court and no longer in force. The selection was made applying the rule of reservation and therefore, there is no violation of any Rule nor malafide in all these selection.

4. The 4th respondent filed a counter. According to him, the seniority raised as point No.1 by the writ petitioner is not sustainable. The employment exchange sponsored candidates on the basis of seniority in the ratio of 1:5. For every single post, 5 persons were sponsored and one is selected. The selection is made



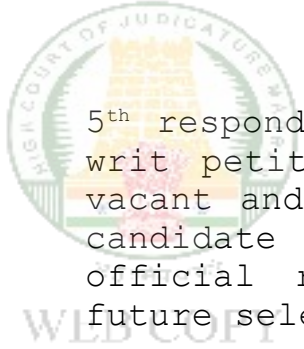
one among the five alone on the basis of merits. If at all seniority is to be considered as per the seniority in the employment exchange, they need not ask to sponsor candidates for selection. But they can straightaway nominate the senior most person to the post. Therefore, the point that the seniority in employment exchange is violated is not sustainable. The second point raised by the writ petitioner was that the persons, who were appointed from other Taluks, is in violation of Rule 7(c) of the Tamil Nadu Village Assistants Service Rules. According to the 4th respondent, he belongs to Kallathikulam village, which is within 5 kilometers from Tiruchuli Town. Whereas, the writ petitioner belongs to Naloor Village, which is 20 kilometers away from the place of 4th respondent appointment. Therefore, this ground is not available to the writ petitioner. Insofar as the educational qualification is concerned, the maximum educational qualification is 10th Standard fail. Whereas, the 4th respondent is having only 5th Standard pass. Even assuming that there is a maximum qualification that was negatived by the Judgment of this Court in W.P(MD) Nos.9642 and 9643 of 2011 dated 27.09.2011. The fourth point is that in the interview, no marks were given and selection was not properly done. Insofar as the 4th respondent is concerned, he had proved that he can ride cycle and answered the questions during in the interview and was able to read and write in Tamil. After verification employment registration card, community certificate and physical fitness certificate, he was selected and the 4th respondent is not aware of the performance of writ petitioner. Insofar as Rule of Reservation is concerned, the 4th respondent also belongs to SC candidates and therefore, violation of Rule of Reservation cannot be applied against him. The 4th respondent was also waiting in the employment exchange for more than 22 years and therefore, he is also equally placed that of the writ petitioner and therefore, his selection cannot be questioned at this stage.

5. I have considered the rival submissions and the documents are perused.

6. Insofar as the selection of the 4th and 5th respondents is concerned, there is no material irregularity alleged by the writ petitioner. As stated by the official respondents, the process of selection was not found fault with, but only the non-selection of the writ petitioner is being questioned in this writ petition.

7. From the perusal of all these records, this Court finds that there is no irregularity in selecting the 4th and 5th respondents. Therefore, the selection of the 4th and 5th respondents cannot be interfered with.

8. The learned counsel appearing for the writ petitioner submitted that there was an interim order directing the respondents to reserve one post and would pray that the petitioner should be considered for that post. Since the selection of 4th and



5th respondents has been upheld, such a direction to consider the writ petitioner is not possible. However, if the post is still vacant and if the official respondents are going to consider any candidate for that post in future, a direction is issued to the official respondents to consider the petitioner also for the future selection, in accordance with law.

9. This writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

/True copy/

Sub Assistant Registrar

To

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Virudhunagar.

3.The Tahsildhar,
Tiruchuli Taluk,
Virudhunagar District.

+1 CC to Mr.S.Visvalingam, Advocate, SR No. 73553

+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 73706

SKN

PSM/SKN/SAR4/05.04.2017/4P/6C

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