

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

WP.No.7197 of 2009 and
M.P.Nos.1 and 2 of 2009

K.Govindan

.. Petitioner

Vs.

1.The Tahsildar,
Chengam Taluk Office,
Chengam.

2.The Revenue Divisional Officer,
Thiruvannamalai.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.Ka.A3/ 13794/08 dated 10.02.2009 quash the same and consequently direct the 1st respondent to issue appointment order of the Village Assistant Post to the petitioner forthwith.

Petitioner : Mr.R.Krishnan

Respondents: Mrs.P.Rajalakshmi

Government Advocate

ORDER

The writ petitioner has been filed this petition for the issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.Ka.A3/ 13794/08 dated 10.02.2009 quash the same and consequently direct the 1st respondent to issue appointment order of the Village Assistant Post to the petitioner forthwith.

2.The case of the petitioner is that he was born on 10.11.1967 and belongs to Scheduled Caste community, the petitioner was passed S.S.L.C. and thereafter, he registered his name in the employment exchange at Alangayam on 11.04.1988. After the bifurcation of the North Arcot District, the petitioner's name was transferred to Tiruvannamalai Employment Exchange on 03.05.1993.

3.As per Rule 3 of Special Rules for Tamil Nadu Village Servants Service, the 1st respondent Tahsildar is the appointing authority as per Rule 2, the appointment of the said Village Assistant post shall be made by direct recruitment through the Employment Exchange concerned. He also states that as per the Rule 4 provides for reservation as per Rule 22 of the General Rules for the Tamil Nadu State and Subordinate Service and each Taluk is a separate unit for the said purpose. The petitioner also states that for the Village Assistant post the qualification is fixed as 5th standard passed and Rule 5 fixes the age qualification for General category between 21 to 30. Upper age limit 35 for Most Backward Class, Scheduled Tribe, Scheduled Caste and Backward Caste.

4.It is the further case of the petitioner is that in the year 2007, the 1st respondent Tahsildar, Chengam Taluk Office called for the list of qualified candidates from the District Employment Exchange from the live register to fill up 107 posts of Village Assistant. Based on the list sent by the Employment Officer, 1st respondent called upon the candidates to attend the interview on 10.04.2007 and 21.09.2007. Pursuant to the said call letters, this petitioner was also attended both the interviews.

5.Pursuant to the orders issued by the Government prescribing a revised norms to be followed at 1:5 ratio and the second interview was conducted. On account of this, based on the list sponsored by the employment exchange, the 1st respondent conducted the interview and thereafter, the petitioner was attended the interview on 21.09.2007, since the petitioner was attended in the interview well and was anticipating the appointment order, but, his shock and surprise, he was denied the appointment, but the juniors of the petitioner who are above age of the employment and also unqualified persons were given appointment orders during the year of February 2008.

6.The petitioner also states that on coming to know about the illegal appointments, the petitioner sent a representation to the 1st respondent and thereafter, he has been visiting the office of the 1st respondent on many occasions. Finally, on 27.11.2008, he represented to the 1st respondent for issuing certain details, for that only a reply dated 10.02.2009 was sent enclosing a copy of the selection list and the live list of the above Employment Exchange. Apart from this, on receipt of the same, he approached the 1st respondent for orders on his request for appointment, he was informed that no separate orders will be issued and after the disposal of the writ petitions pending before this Court, the Court will consider his claim. But, even after disposal of the writ petition, he sought for a reply in

writing. The petitioner also states that due to the retirement, there are 30 posts vacancy, for that also the petitioner made a representation even then there is non issue of appointment orders persons like the petitioner approached this Court in WP.No.23346 of 2007 and WP.No.5613 of 2008 and that the writ petitioners were got orders against the 1st respondent. Therefore, the petitioner has approached this Court and filed a writ petition for quashing the order dated 10.02.2009 directing to issue appointment order for the Village Assistant post to the petitioner forthwith.

7.A counter affidavit has been filed by the 1st respondent Tahsildar in which he denied the entire allegations set out in the affidavit.

8.The 1st respondent admitted that the age and educational qualification has stated by the writ petitioner is correct one and as per the G.O. the respondent called for the District Employment Exchange, Tiruvannamalai, for a list of candidates for appointment as Village Assistants, who possess the minimum general educational qualification of 5th standard. The ratio of selection from the list of candidates sponsored by the District Employment Exchange is 1:5 with provision for reservation as per Rule 22 of the General Rules for the Tamil Nadu State and Subordinate Service Rules. All the candidates, who were sponsored for selection as Village Assistant post, were called upon for interview on 21.09.2007 and from among those attended the interview on 21.09.2007, a list of selected candidates was prepared and they were appointed as Village Assistants in various villages under Chengam Taluk. The petitioner's name does not figure in the selection list.

9.The 1st respondent also states that some candidates were approached this Court and filed the writ petitions in W.P.No.14852 of 2008, etc., seeking remedy for their grievance, these petitioners were sent a representation on 27.11.2008 requesting the 1st respondent to appoint him as Village Assistant. The petitioner was not selected for appointment as Village Assistant in consideration of his performance in the interview held on 21.09.2007, which was poorer than the performance of other candidates, who attended the above interview, he presumed that he was not selected in consideration of his performance in the interview in the matter of reading and writing in Tamil and Cycling, place of vacancy, communal rotation. The 1st respondent also states that only if a candidate is assessed to be eligible for selection in the interview held, then the age relaxation rules come into operation. The 1st respondent has sent a reply dated 10.02.2009 to the petitioner, challenging the said order dated 10.02.2009, the petitioner filed a writ petition in WP.No.7197 of 2009 and

the same is pending. However, this Court passed an interim order dated 04.04.2012 in MP.No.1 of 2012 in WP.No.7197 of 2009, ordered with the direction to the 1st respondent to keep one post of Village Assistant reserved and accordingly, one post of Village Assistant was reserved and the same is kept pending till date.

10. Aggrieved against the order of the 1st respondent dated 04.04.2012, the writ petitioner has filed the present writ petition with full of false and baseless allegations. The writ petition is false, vexatious and is unsustainable either in law or on fact and the same is deserves to be dismissed.

11. The 1st respondent also states that of course true that the 1st respondent is the appointing authority for the post of Village Assistant as per G.O.Ms.No.625, Revenue Department, dated 08.07.1995 read with Rule 3 of the Tamil Nadu Village Servants Service Rules. Though the petitioner was called for interview on 21.09.2007, but his performance was poorer than the other candidates. Therefore, he was not selected for the said post. Therefore, the 1st respondent prayed this Court for dismissal of the writ petition.

12. I heard Mr.R.Krishnan, learned counsel appearing for the petitioner and Mr.P.Rajalakshmi, learned Government Advocate appearing for the respondents and perused the entire records.

13. Admittedly, the petitioner was a candidate, who belongs to Scheduled Caste was born on 10.11.1967 and passed S.S.L.C. and registered his name with the Employment Exchange on 11.04.1988. Though the petitioner was called for interview on 21.09.2007. It is the case of the 1st respondent is that the petitioner's performance is poorer than the other candidates, belongs well in the interview, but it is made suffice that for the appointment of the Village Assistant post, the interview was conducted, for the qualification that the candidate should be able to read and write in Tamil and also Cycling, but the petitioner, who born on 10.11.1967 and completed his S.S.L.C. cannot be held to prove that he has not having the qualification for reading and writing in Tamil and also Cycling. Normally, the person, who completed S.S.L.C. are able to read and write in Tamil, but the petitioner, who passed S.S.L.C. said that he was poor in read and write in Tamil, which was not acceptable one.

14. The measurement made by the 1st respondent in respect of candidate namely this petitioner read and write in Tamil is not acceptable one, the person who ailing from the village and also fixing the qualification for read and write in Tamil and also Cycling cannot be said and he is not having full qualification

and his performance is poor in the interview cannot be accepted. Therefore, I am of the firm view that the petitioner has make out the case for the appointment of the Village Assistant in the respondent Department. Therefore, this Court warranting interference in the order passed by the 1st respondent Tahsildar and accordingly the same is liable to be quashed.

15. In the result:

(a) this writ petition is allowed by setting aside the order of the 1st respondent in Na.Ka.A3/13794/08, dated 10.02.2009;

(b) the petitioner is directed to submit his fresh representation to the 1st respondent Tahsildar, Chengam Taluk, within a period of 15 days from the date of receipt of a copy of this order;

(c) on receipt of the said representation from the petitioner, the 1st respondent Tahsildar, Chengam Taluk, is directed to consider the case of the petitioner and to appoint him as Village Assistant in any one of the Village under the control of the 1st respondent;

(d) the said exercise shall be done within a period of eight weeks thereafter. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

vs

To

1. The Tahsildar,
Chengam Taluk Office,
Chengam.

2. The Revenue Divisional Officer,
Thiruvannamalai.

+1 Cc to Govt. Pleader sr 13590.

WP.No.7197 of 2009 and
M.P.Nos.1 and 2 of 2009

MN (CO)
sp (24/10/2017)