

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30287 of 2013

K.Selvam
.. Petitioner

vs.

1.The Secretary to Government
State of Tamil Nadu
Animal Husbandry,Dairying and Fisheries
Department
Secretariat, Chennai-600 009

2.The District Collector
Tiruvallur District
Tiruvallur-602 001

Respondents

..

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in his impugned proceedings Na.Ka.4901/2011/M1 dated 18.09.2013 and quash the same as unjustifiable and illegal and consequently direct the respondents to provide an employment to the petitioner in any of the basic servant post in Government Service under the special category of legal heir of freedom fighter.

For Petitioner : Mr.R.Munusamy
For Respondents : Mr.K.Thangapandi
Government Advocate

O R D E R

The relief sought in this writ petition is to call for the records in respect of the order of rejection passed by the second respondent in proceedings Na.Ka.4901/2011/M1 dated 18.09.2013 and quash the same and direct the respondents to

provide an employment to the petitioner in any of the basic servant post in Government Service under the special category of legal heir of freedom fighter.

2. The learned counsel appearing for the writ petitioner made a submission that his father Mr.Kuppusamy was a freedom fighter of Indian National Army constituted under the great leadership of Netaji Subash Chandra Bose. The petitioner states that his father had participated in several freedom struggles and was imprisoned several times by the British Government. The contribution of the father of the writ petitioner during the freedom struggle was duly recognized by the Government of Tamil Nadu as well as by the Union of India and accordingly, the freedom fighters pension was sanctioned to the father of the writ petitioner. The father of the writ petitioner passed away on 10.05.1978.

3. The petitioner states that he made a representation to the Authorities competent to provide employment under the category of legal heir of freedom fighters. In this regard, the writ petitioner had not received any reply from the competent authorities. Thus, he filed a writ petition in W.P.No.9530 of 2011 and this Court passed an order on 29.06.2011 directing the authorities to consider his representation and pass orders accordingly. The District Collector, Tiruvallur, passed an order of rejection in proceedings dated 18.09.2013. The District Collector, Tiruvallur is of the opinion that there is no rule to provide Government employment to the legal heirs of the freedom fighters and further, the father of the writ petitioner expired in the year 1978 and this apart, in the event of considering any such case, there will be large number of similar cases and the same also have to be considered for providing employment in Government service. Under these circumstances, the District Collector rejected the claim of the writ petitioner.

4. This Court is of the opinion that the appointment can never be claimed as a matter of right. Public employment can be provided by providing equal opportunity to all the citizens of this great nation and it is for the writ petitioner to participate in the open competitive exams and get himself selected. The authorities competent are bound to fill up the public post, under the constitutional schemes, by following the recruitment rules in force. Any special or exceptional schemes are to be restricted and such schemes cannot be construed so as to provide employment to large number of candidates. In such an event, equality clause enshrined in constitution will be affected. Equal opportunity to any public employment is the constitutional mandate and perspective. Thus, the exceptional schemes, which are providing a special scheme for appointment, also should be certainly restricted and the same cannot be

enlarged. The Government should be cautious while granting exceptional appointments so as to see that the regular stream of appointments in accordance with the recruitment rules in force is not affected. In the event of considering the scope for any such special scheme, certainly it would amount to violation of Article 14 and 16 of the Constitution of India.

5. Thus, this Court is of the clear opinion that all public employments are to be undertaken strictly by following the recruitment rules in force. There is no rules in force so as to provide any public employment to the legal heirs of freedom fighters. Under these circumstances, the reasons furnished by the District Collector, Tirvullur in the impugned proceedings dated 18.09.2013 is certainly candid and convincing. Thus, this Court do not find any error in the order impugned.

Accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gpa

To

1.The Secretary to Government
State of Tamil Nadu
Animal Husbandry,Dairying and Fisheries
Department
Secretariat, Chennai-600 009

2.The District Collector
Tiruvallur District
Tiruvallur-602 001

+1cc to Mr.R.Munusamy, Advocate SR.No.80473
+1cc to Government Pleader SR.No.80975

W.P.No.30287 of 2013

GN(30/11/2017)