

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.18957 of 2017

S.Ravichandran

.. Petitioner

-vs-

1. The District and Sessions Judge
Tiruvannamalai District

2. The Chief Judicial Magistrate
Tiruvannamalai

3. The Registrar General
High Court, Madras
(3rd Respondent is not necessary party
hence given up)

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the Respondents 1 and 2 herein to accept the application of the petitioner dated 20.06.2017 afresh for the post of Office Assistant and call for an interview to the petitioner.

For Petitioner :: Mr.V.Kannan

For Respondents :: Mr.S.Haja Mohideen Gisthi

ORDER

(Order of the Court was delivered by RAJIV SHAKDHER, J.)

The writ petition is filed seeking issuance of a writ of mandamus or any other appropriate writ, order or direction qua respondent Nos.1 & 2 for acceptance of the petitioner's application dated 20.06.2017, for the post of

Office Assistant. Furthermore, the petitioner, also, seeks a direction that he be called for an interview for being considered for appointment to the said post.

2. The writ petition has been filed in the background of the following facts:

2.1. It appears that the respondents had issued a notification for inviting applications for appointment to the post of Office Assistant and other posts in respect of the District Courts at Tiruvannamalai.

2.2. Evidently, the respondents had accumulated vacancies against various posts over the past several years. Upon directions being issued by this Court vide judgment dated 29.4.2008, passed in Writ Petition Nos.33647 and 32836 of 2007, steps were taken to fill up various vacant posts, which were 85 in number, by direct recruitment, *albeit*, via public notice.

2.3. The petitioner, admittedly, had filed two applications for appointment to the post of Office Assistant with the office of respondent No.1. The applications filed by the writ petitioner were received in the office of respondent No.1, on 21.06.2017. The two applications filed by the petitioner were numbered as : 9560 and 10129.

2.4. Respondent No.1, it appears, had received nearly 30,000 applications, out of which, according to the respondents, 18,000 were rejected

on the ground that they were defective.

2.5. The record shows that two applications filed by the writ petitioner were also rejected on the ground that they were defective. In so far as application No.9560 was concerned, it was rejected on the ground that it was not in the format prescribed, while application No.10129 was rejected on the ground that the petitioner, in response to the query as to which religious denomination he belonged to, had stated that he was an "Indian". Given this response, respondent No.1 treated the petitioner's application as defective, albeit, without noticing the fact that the information sought, as set out in row No.9 of the formatted application, read as follows:-

"9 njrpa ,dk;-kjk; (Nationality/Religion)"

2.6. It appears that the respondents had invited the applicants to rectify the defects by uploading the necessary information on its website, on 14.7.2017. Evidently, the petitioner did not cure the defects and in the interregnum, the interviews for appointment of Office Assistants were held and completed on 23.7.2017. It is the stand of the respondents that on the very same date, list of selected candidates was also published and that those who were selected, joined duties in the concerned Courts on 1.8.2017.

3. The captioned writ petition came up before us, on 22.08.2017, since, the writ petitioner was not represented before us, on that date, we deferred

passing adverse orders and posted the matter for further proceedings, on 24.8.2017.

4. On 24.8.2017, Mr.Gisthi appeared for the respondents, while Mr.Kannan represented the petitioner. At the request of Mr.Gisthi, time was given to the respondents to place the record concerning appointment of Office Assistant before this Court. The matter was re-notified for 30.08.2017.

5. On 30.08.2017, Mr.Gisthi was directed to file an affidavit to indicate whether or not there were any vacancies in the post of Office Assistants. Pursuant to the said direction, an additional counter affidavit dated 08.09.2017, came to be filed on behalf of respondent No.1. A perusal of paragraph 5 of the additional counter affidavit would show that seven (7) posts qua Office Assistants are vacant in the civil unit of the District Court at Tiruvannamalai.

6. Having regard to this information, what we need to consider is : Could respondent No.1 have rejected the petitioner's applications on the ground that they were defective ?

7. As indicated above, two applications were filed. The first application bearing no.9560 was rejected on the ground that it was not made in the proper format, whereas application No.10129 was rejected on the ground that the petitioner had not indicated as to which, religious denomination, he belonged to.

8. As indicated, hereinabove, the information sought in the formatted application, insofar as the second application was concerned, is to the effect that the applicant was required to state either his nationality or his religious denomination. The petitioner did indicate that he is an Indian, though no indication was given as to the religious denomination to which he belonged. Respondent No.1, however, rejected the application solely on the ground that the petitioner had not indicated his religious denomination.

9. To our minds, the rejection of the petitioner's second application, at least, was not proper. The reason being that the petitioner, as per the poser set out against query in row No.9 was required to either state his nationality or his religious denomination. According to us, the appraiser of the application failed to appreciate the rationale behind the information which was sought against row No.9. It is quite possible that the applicant, who applies for the post of an Office Assistant, does not subscribe to any religion and that, he could either be an agnostic or, a rationalist or, even an atheist. The fact that in the alternative, the applicant was asked to indicate his nationality, which the petitioner did indicate in the instant case, to our minds, was sufficient and, therefore, the application could not have been rejected on that ground. Since, the rejection of the application was based on a wrong premise and understanding of the information sought, we are inclined to hold that the application No.10129 filed by the petitioner was maintainable.

10. We may not have been able to proceed any further, if there were no vacancies available. The fact that vacancies are available, as affirmed by the counsel for the respondents, we are inclined to direct the respondent No.1 to reconsider the petitioner's suitability for the post of Office Assistant in accordance with the extant Rules and Regulations. The needful will be done within two weeks of the receipt of a copy of this order. The writ petition is, accordingly, disposed of. Consequently, W.M.P.No.20462 of 2017 shall stand closed. No costs.

11. List for compliance on 26.10.2017.

Speaking/Non speaking order (R.S.A.,J.) (A.Q., J.)
12.09.2017

Index : yes/no

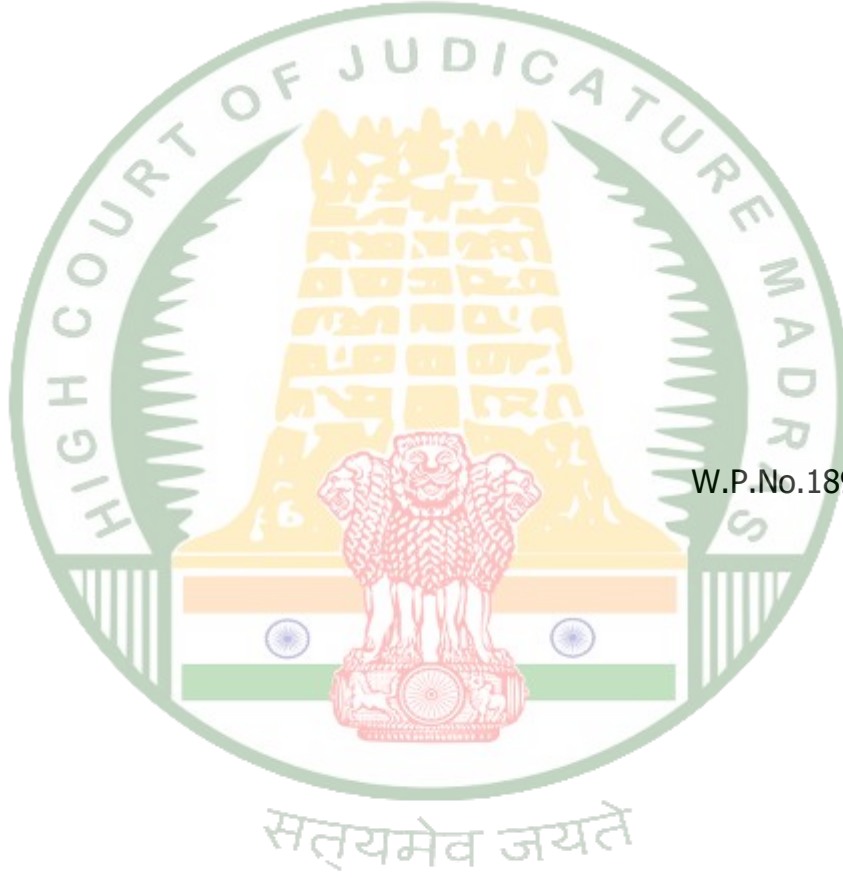
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To

1. The District and Sessions Judge
Tiruvannamalai District
2. The Chief Judicial Magistrate
Tiruvannamalai

RAJIV SHAKDHER, J.
AND
ABDUL QUDDHOSE, J.

SS



W.P.No.18957 of 2017

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