

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 15.02.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33647 of 2016 and
W.M.P.Nos.29016, 29017 and 34288 of 2016

S.Naveenkumar

..Petitioner

Vs

- 1.The Government of Tamil Nadu
rep. by its Secretary,
Municipal Administration and Water Supply
Department, Fort St. George,
Chennai-9.
- 2.The Director of Town Panchayat,
Kuralagam, Chennai-108.
- 3.The District Collector,
Erode, Erode District.
- 4.The Additional Director of Town Panchayat,
Erode, Erode District.
- 5.The Executive Officer,
Petham Palayam Town Panchayat,
Petham Palayam Post,
Kanj Kovil via,
Perundurai Taluk,
Erode, Erode District-638 116.
- 6.The Appointment Committee
Rep. by its Chairman,
Petham Palayam (Post)
Kanj Kovil (Via)
Perundurai Taluk, Erode
Erode District-638 116

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 5th respondent in Na.Ka.No.85/2016 dated 14.09.2016 and quash the same and

consequently, direct the respondents to reappoint/reinstate the petitioner as Electrician Grade-II into service.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.P.Sanjai Gandhi,
Additional Government Pleader
for R1 to 4

Mr.STS.Murthy,
Additional Advocate General,
assisted by Mr.A.Kumar,
Special Government Pleader for R5
Mr.J.Vinoth,
Counsel for R6

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner in the affidavit filed in support of the writ petition would aver among other things that a Paper Advertisement was issued on 16.08.2016 by the 5th respondent to fill up the post of Electrician Grade-II under GT Non Priority Category and simultaneously, a list was called for from the District Employment Exchange. Interview was conducted on 14.09.2016 along with other 5 candidates. Finally, the petitioner was selected as Electrician Grade-II on 14.09.2016 after obtaining resolution from the Appointment Committee, namely, the 6th respondent. According to the petitioner, the selection was made in accordance with law and on merit basis. The petitioner started working from 14.09.2016 A.N. While that being so, the 5th respondent has issued an impugned order, cancelling his appointment order on administrative reasons and the same has been served on 17.09.2016. Challenging the legality of the said order, the petitioner came forward to file this Writ Petition praying for the quashment of the impugned order dated 14.09.2016 with a further direction, directing the respondents to reappoint/reinstate him into service as Electrician Grade-II.

3. Learned Counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents as well as the counter affidavit filed in support of the Vacate Stay Petition in WMP.No.34288/2016 and would submit that the impugned order though states that this appointment came to be cancelled on account of administrative basis, does not specifically spelt out the exact reasons.

4. It is the further submission of the learned Counsel for the petitioner that as per the averments in the given Counter Affidavit, the objections have been received from candidates who have attended the interview, but was not selected and whose application was returned as belated, challenging the selection and appointment of the petitioner on the ground of partiality and favoritism. One of the said candidates has also issued a Legal Notice dated 12.09.2016.

5. It is the further submission of the learned Counsel for the petitioner that as per the averments in the given Counter Affidavit, as per G.O.Ms.No.623, Industrial (MIA-I) Department, dated 22.09.1998 and G.O.Ms.No.24, Information Technology (MIE) Department, dated 16.07.1999, the 5th respondent has not called for the names of available retrenched employees with the required qualifications for appointment in the local bodies, for the said post and on account of the same, the appointment of the petitioner has been cancelled and he has been removed from service on the same day of appointment. Therefore, the learned Counsel would submit that the said reasons are invented to deprive the benefit of order of appointment granted to the petitioner and prays for interference.

6. Alternatively, it is submitted by the learned Counsel for the petitioner that even for the sake of argument, even assuming that the petitioner did not enclose the Experience Certificate as required in the advertisement, the 5th respondent ought to have called for those particulars before conducting interview. Since that exercise has not been done, the impugned order of cancelling the petitioner's appointment is liable to be set aside and he should be reinstated with all consequential and attended benefits.

7. Per contra, Mr.S.T.S.Murthy, learned Additional Advocate General assisted by Mr.A.Kumar, learned Additional Government Pleader appearing for the respondents 1 to 4 drawing the attention of this Court to the records would submit that in the light of the stand taken by the 5th respondent in the counter affidavit, a fair decision has been taken to cancel the appointment of the petitioner and the 5th respondent is also going to issue a fresh advertisement apart from calling for candidates from the Employment Exchange in the light of the above cited Government Orders and therefore, prays for dismissal of the writ petition.

8. This Court bestowed its attention to the rival submissions and also perused the materials placed before him.

9. Admittedly, the 5th respondent has issued an Advertisement in 'Malai Murasu' Tamil Vernacular Newspaper on 16.08.2016 and apart from general and other conditions, a condition was also put forth calling upon the applicants to produce the certificates evidencing Educational Qualification, Community Certificate, Resident Certificate, Family Card and Experience Certificate.

10. A perusal of the files produced by the Additional Advocate General disclose that the petitioner in his own handwriting submitted the application dated 30.08.2016 in response to the said advertisement and even in the contents of the application do not disclose as to his previous experience/working in the relevant field. The documents enclosed along with the application submitted by the petitioner also would reveal that he has enclosed only a copy of Ration Card and Employment Registration Certificate.

11. The last date for submission of the application is on 31.08.2016 and the petitioner has registered his name in the District Employment Exchange, Erode on 29.08.2016 bearing Registration No.ERD 2016 M00016259.

12. It is the further submission of the learned Counsel for the petitioner that though the petitioner in his application did not state anything about the previous experience and also not enclosed any Certificate evidencing his previous experience, it is obligatory on the part of the 5th respondent to call for additional particulars and in that event, he could have submitted the same.

13. In the considered view of this Court, the said submission is liable to be rejected for the reason that even in the affidavit filed in support of the petition, the petitioner did not aver anything as to the previous experience gained by him in the relevant field as required in the paper advertisement inviting application. It is also to be noted at this juncture that the said condition is one of the essential conditions and as per the application submitted by the petitioner along with the certificates, he did not fulfill the said mandatory requirement.

14. The 5th respondent in the affidavit filed in support of the Vacate Stay Petition in paragraph 14 has also averred that as per G.O.Ms.No.623, Industrial (MIA-I) Department, dated 22.09.1998 and G.O.Ms.No.24, Information Technology (MIE) Department, dated 16.07.1999, the 5th respondent has not called for the names of available retrenched employees with the required qualifications for appointment in the local bodies, for the said post and on account of the same, the appointment of the

petitioner has been cancelled and he has been removed from service on the same day of appointment.

15. In the considered opinion of the Court, the cancellation of the order of appointment granted to the petitioner cannot be interfered with in the light of the reasons assigned herein above.

16. In the result, the Writ Petition is dismissed. However, in the circumstances of the case, there shall be no order as to costs. It is open to the petitioner to submit an application, as and when an advertisement is called for, for filling up of the post of Electrician Grade-II under GT Non Priority Category and if the application is in order, it shall be entertained, and, thereafter further proceedings shall take place strictly in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply
Department, Fort St. George,
Chennai-9.
- 2.The Director of Town Panchayat,
Kuralagam, Chennai-108.
- 3.The District Collector,
Erode, Erode District.
- 4.The Additional Director of Town Panchayat,
Erode, Erode District.
- 5.The Executive Officer,
Petham Palayam Town Panchayat,
Petham Palayam Post,
Kanj Kovil via,
Perundurai Taluk,
Erode, Erode District-638 116.

+1cc to Mr.A. Kumar, Advocate SR. 9959
+1cc to Mr.N. Kolandaivelu, Advocate SR. 10126
+1cc to Govt. Pleader SR. 10241

W.P.No.33647 of 2016

KSJ(CO)
VR(22/02/2017)



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