

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2017

CORAM

THE HONOURABLE MR. JUSTICE NOOTY. RAMAMOHANA RAO
AND
THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. Nos. 43128 to 43133 of 2016

&

W.M.P. Nos. 36962, 36963, 36965, 36966, 36968, 36969, 36971,
36972, 36974, 36975, 36977 & 36978 of 2016

Muthulakshmi ..Petitioner in W.P. 43128/16
AL. Sivakumar ..Petitioner in W.P.43129/16
K. Gopal ..Petitioner in W.P.43130/16
C. Babu ..Petitioner in W.P.43131/16
M. Jaffer Ali ..Petitioner in W.P.43132/16
N. Murugapandiyan ..Petitioner in W.P.43133/16

Vs.

1. The Principal District Judge,
District Court Campus,
Tiruppur.
2. The Registrar General,
Madras High Court,
Chennai - 600 104. ..Respondents in all the
W.P.s

W.P. Nos 43128 to 43133 of 2016:

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the notification dated 11.11.2016 on the file of the 1st respondent, to quash the same and consequently direct the 1st respondent to issue the posting orders to the petitioner for the post of Office Assistant as per the notification dated 11.11.2013 and thereafter, to fill up the balance vacant posts.

For Petitioner :: Mr.N. Chinnaraj
For Respondents :: Mr.V. Vijayashankar for R2

COMMON ORDER
(Order of the Court was made by NOOTY. RAMAMOHANA RAO, J)

These writ petitions have been instituted seeking to quash and declare the notification dated 11.11.2016 issued by the Principal District Judge, Tirupur, proposing to make recruitment to various posts available in that District, without offering employment to the writ petitioners, as bad in law.

2.The writ petitioners responded to the notification dated 11.11.2013 issued by the Principal District Judge, Tirupur. 80 posts have been notified for direct recruitment on 11.11.2013. Out of them, 25 posts are Office Assistants. The writ petitioners, since, possessed necessary qualifications for recruitment, have responded to the notification and those candidates who have been shortlisted have appeared for the written examination held on 26.07.2014. Out of several thousands of candidates who have responded to the notification, a little less than 42,200 candidates have been permitted to appear for the selection process, which comprises of the written examination. Based upon the performance in the written examination, it appears that 250 persons have been shortlisted and they were subjected to interview on the same day. A merit list comprising of 50 names has been exhibited for the posts of Office Assistants. 29 of those included in the merit list have been appointed by the Principal District Judge, Tirupur, through his proceeding dated 31.07.2014.

3.It is the claim of the writ petitioners that the balance 21 names have been included and shown in the wait list with a promise that they will be appointed against the vacancies that might arise a little later. Since, another notification has been issued on 11.11.2016, proposing to fill up as many as 14 vacancies of Office Assistants, out of total posts of 60 notified in all, the present writ petitions came to be instituted.

4.The undisputed facts are these:-

The Notification dated 11.11.2013, issued by the Principal District Judge, Tirupur, has proposed to fill up as many as 60 posts belonging to various categories, out of which, 25 posts are Office Assistants and the petitioners responded to the said notification. After the selection process was finalised, orders of appointment have been issued on 31.07.2014 appointing as many as 29 candidates as Office Assistants. That itself is an irregularity. As against the notified vacancies of 25 posts, 29 candidates came to be appointed and as if that is not enough, a wait list of 21 candidates is also stated to have been maintained by the Principal District Judge.

5. We find it difficult to understand the rationale behind the approach of the Officer in this regard. There is no material on record to disclose that any of those 29 candidates who have been appointed on 31.07.2014 have either failed to accept the offer or that they have not responded to the posting by joining duty. In the absence of any such contingency, the question of taking up of vacancies by considering the names of the candidates found included in the waiting list, could not arise at all. Normally, a waiting list is prepared only for the purpose of filling up the resultant vacancies. When once no resultant vacancy arises, the waiting list becomes infructuous and inoperative. Even otherwise, as a rule of policy and prudence, the selection process must come to an end after lapse of certain time. Merit list or waiting list prepared at one selection process, expires automatically after either lapse of time of fixed period of currency or issuance of the next notification of recruitment process.

6. Once the next recruitment process has been notified, the selections carried out pursuant to the previous notification cannot be further acted upon. In the instant case, as we have noticed that by notification dated 11.11.2016, 14 vacancies of Office Assistants are sought to be filled up. There is no material available before us to come to a firm conclusion that all these 14 vacancies have become available only due to non joining of the candidates who have been appointed as Office Assistants on 31.07.2014. In the absence of any such material, it would be wholly appropriate for us to infer that these vacancies have become available in the natural process due to retirements, promotions or due to establishment of new Courts, etc. In such an event, these vacancies do not form part of 25 vacancies which have been notified for recruitment during the year 2013. Against these vacancies, the writ petitioners or anyone like them, have no right whatsoever to stake a claim for appointment, based upon their alleged inclusion in the previous selection / waitlist.

7. It is a settled principle of law that when once the number of vacancies which have been notified for recruitment have been filled up, subsequently available vacancies must be filled in by following the due process of law. Due process includes notifying them for all eligible persons to respond and compete in terms of Articles 14 & 16 of the Constitution of India. Public employment, being free for all eligible persons, every vacancy must be notified and allowed to be competed by all eligible candidates and the best amongst them alone should be selected.

8. This apart, yet another well settled principle is that once the notification fixes the number of vacancies to be recruited and such number of men/women get recruited, no further recruitment shall be undertaken in deviation of such process of

recruitment. The reason being, the process of recruitment specifically confines itself to the numbers notified therein, unless a subsequent caveat is entered therein that the number of vacancies notified is only as approximate and such numbers may increase or decrease. We find no such caveat or caution in the notification published in the year 2013. Further, it is also a settled principle of law that availability of mere vacancy does not clothe the candidate in the merit list, any right to be considered. Next candidate in the merit list has no right to insist upon his selection. Looked at from any angle, we find no merit in these writ petitions and accordingly they are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-VIII)

True Copy

Sub-Assistant Registrar

jbm

To

1. The District Judge,
Tiruppur.
2. The Registrar General,
High Court, Madras.
3. The Section Officer
Legal Cell, High Court, Madras.

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W.P. Nos.43128 to 43133 of 2016

SKS (CO)
sp(31/07/2017)

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