

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 31.08.2017

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CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA**W.P. (MD) No.19511 of 2016****and****W.M.P (MD) Nos.14082 to 14084 of 2016**

L.Saravanaraj

... Petitioner

Vs.

1. The Director of Adi Dravidar Welfare,
O/o the Directorate of Adi Dravidar Welfare,
Chepauk, Chennai - 5.
2. The District Collector,
Tirunelveli District,
Tirunelveli.
3. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

4. Mr.Sudalaimani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring all the appointments made by the 3rd respondent in the post of cook in pursuant to the news item published on 31.12.2015 as null and void and consequently direct the respondents 1 to 3 to make fresh recruitment in accordance with law and thereby consider the petitioner's case for the above said post based on his representation dated 24.03.2016.

For Petitioner : Mr.T.Selvam
for Mr.N.Muniraj

For Respondents : Mr.K.Guru,
Additional Government Pleader
for R.1 to R.3
Mr.S.Xavier Rajini, for R.4

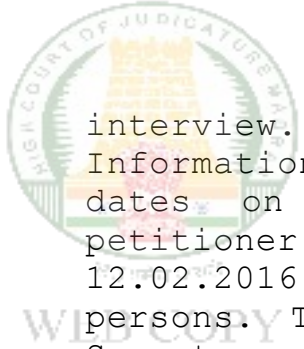
**O R D E R**

The present writ petition has been filed for issuance of a Writ of Declaration, declaring all the appointments made by the District Adi Dravidar Welfare Officer, Tirunelveli / 3rd respondent herein, in the post of cook, pursuant to the news item published on 31.12.2015, as null and void and consequently direct the respondents 1 to 3 to make fresh recruitment in accordance with law and thereby consider the petitioner's case for the above said post based on his representation dated 24.03.2016.

2. Heard both sides.

3. The learned Counsel for the petitioner submitted that the petitioner is hailing from poor and downtrodden category, belonging to Scheduled Caste community. He has passed 10th Standard and enrolled the same with the District Employment Exchange and also making periodic renewal. As he was eligible for the post of Cook in the respondent Department, he applied for the same, pursuant to the news item published on 31.12.2015, calling for applications from the eligible candidates for the post of cook, specifically meant for Scheduled Caste and Scheduled Tribe communities. It is mentioned in the Notification that there are 37 vacancies available in the third respondent district, out of which, 24 vacancies were allotted for male candidates and 13 vacancies were allotted for female candidates. Further, it has been mentioned that all the vacancies were going to be filled up only through interview which was scheduled to be held on 12.01.2016. The qualification meant for the post of cook shows that a candidate must have the knowledge of reading and writing in Tamil language, with previous experience in the field of cooking. Therefore, the petitioner applied for the said post on 31.12.2015, along with the experience certificate and all other relevant certificates. The third respondent had also issued the acknowledgement letter, with official seal. The petitioner was informed to appear for interview on 12.01.2016. As per the same, the petitioner appeared before the third respondent on 12.01.2016, for interview. But the third respondent, orally informed the petitioner that the interview was adjourned without specifying the further date. On enquiry, the petitioner was informed that further date would be informed later, through post. In view thereof, the petitioner was under legitimate expectation that he would be invited for further interview. But, to his shock and surprise, the third respondent had filled up the said post arbitrarily, without communicating the adjourned date for interview to the petitioner.

4. After knowledge of the subsequent development, the petitioner approached the third respondent and made a representation to the second and third respondents on 24.03.2016, regarding the non-communication of the adjourned date for



interview. Thereafter, an application was also made to the Public Information Officer, Tirunelveli, under the RTI Act, to know the dates on which the interview was conducted, whereby, the petitioner received a reply stating that the interview was held on 12.02.2016 and the same was communicated to all the eligible persons. The same was challenged by the petitioner before the Secretary, Adi Dravidar Welfare Department, by way of Appeal dated 02.06.2016, which in turn was forwarded to the third respondent, who gave a cyclostyled reply on 04.07.2016. Aggrieved by the same, the petitioner has come to this Court with the present petition.

5. The learned counsel for the petitioner contended that the petitioner being passed 10th Standard and enrolled the same with the District Employment Exchange, the 3rd respondent ought not to have left out the petitioner from inviting to the interview held on 12.02.2016, on the ground that the petitioner was possessing higher qualification. As the date of interview has not been communicated to the petitioner, he was not able to attend the same on 12.02.2016.

6. The learned Counsel for the petitioner relied upon Rule 5 (2)aa, of the Tamil Nadu Basic Service Rules, which clearly shows that the candidates for appointment on Direct Recruitment, under Class IV : Category 2 : Cooks, must be able to read and write Tamil Language. But the respondents misconstruing that pass in 10th standard is a over qualification, have disqualified the petitioner. Therefore, a direction may be issued as prayed for, it is pleaded.

7. The respondents 1 to 3 have filed a detailed counter affidavit stating that the second respondent issued notification in the Tamil Daily on 31.12.2015, calling for applications from the eligible candidates, who are coming under the category of Scheduled Caste and Scheduled Tribes, for selection to the post of Cook in Adi Dravidar Welfare Department Hostels, for 37 vacancies. It was specifically mentioned that all the vacancies will be filled up through interview on 12.01.2016. Since the post of Cook in Adi Dravidar Welfare Department Hostel comes under the category of 'Basic Servant', the qualification for filling up the vacancies has also been made clear, which is extracted here under:

"i) The applicant should know to read and write in Tamil language and should not passed in 10th standard (Highest Educational Qualification is S.S.L.C. Fail)

ii) Age limit is 35 years as on 01.07.2015

iii) The applicant should be a resident of Tirunelveli District

iv) The applicant must have previous experience in cooking both Vegetarian and Non-Vegetarian food

<https://hcservices.ecourts.gov.in/hcservices/> The applicant should be SC/ST/SCA

vi) No Civil/Criminal case pending against applicant"



8. It is further stated in the counter affidavit that based on the said Notification, around 1239 applications were received, including the petitioner's application. After thorough scrutiny, only 600 applications were found eligible, as they fulfilled the requisite qualification for the said post. Moreover, the applications of the following applicants were not taken up for consideration namely,

- i) 386 applications, as they were over qualified. i.e., S.S.L.C. Passed
- ii) 253 applications, as they were over aged. i.e., above 35 years
- iii) Applicants who were Non-residents of Tirunelveli District
- iv) Applicants who were not having previous experience in cooking

9. When the date of interview was notified as 12.01.2016, for administrative reasons, the interview could not be conducted on the said date and the respondents displayed in their office notice board that the subsequent date of interview will be communicated to the candidates, who were found eligible. Pursuant to the same, the interview was conducted on 12.02.2016 and after completion of the interview, all the 37 vacancies were filled up, with all eligible candidates and as of now, there is no vacant position for the post of Cook. As the petitioner was having over qualification, he was found ineligible and he was not informed about the interview process, therefore, this writ petition is liable to be dismissed, it is pleaded.

10. I find much force in the contention raised by the the respondents. It is not in dispute that for post of Cook in Adi Dravidar Welfare Department, which comes under Basic Servant, the requisite qualification prescribed for the said post is to read and write Tamil Language. When there is a qualification prescribed in respect of the said post and the petitioner is in possession of 10th standard certificate, the act of the respondents in not calling for the petitioner to attend the interview is justified, as, according to the respondents, the petitioner is over-qualified insofar as the post is concerned. Hence, finding no merit in this writ petition, the same is ordered to be dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar



To

1. The Director of Adi Dravidar Welfare,
O/o the Directorate of Adi Dravidar Welfare,
Chepauk, Chennai - 5.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

3. The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

+1cc to M/S. N.MUNIRAJ, Advocate, SR.No.76312.

+1cc to Special Government Pleader, SR.No.76152.

W.P. (MD) No.19511 of 2016
and

W.M.P (MD) Nos.14082 to 14084 of 2016
31.08.2017

gk

SDS/SV:MMS/SAR 3/04.10.2017/5P/6C