

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.3550 of 2011

S.Balu

...Petitioner

Vs

1.The District Collector, Perambalur

2.The District Revenue Officer, Perambalur

3.The Revenue Divisional Officer, Perambalur

4.The Tahsildar, Veppanthattai, Perambalur

5.The District Employment Officer, Perambalur

6.S.Thangadurai

...Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records, in respect of the order of appointment, dated 23.12.2010, issued by the 4th Respondent, appointing the 6th Respondent and to quash the same and to further direct the 4th Respondent to appoint the Petitioner, on merits.

For Petitioner : Mr.L.P.Balaji Ram

For Respondent : Mr.M.Karthikeyan, AGP-RR1 to 4
Mr.C.Munusamy-SGP-R5
Mr.Ganesan-R6

ORDER

In this Writ Petition, the Petitioner seeks to quash the order of appointment, dated 23.12.2010, issued by the 4th Respondent, appointing the 6th Respondent in the post of the Village Assistant and to further direct the 4th Respondent to appoint him in the said post.

2. Heard the learned counsel on either side and also perused the materials placed on record.

3. According to the Petitioner, the Petitioner belongs to SC Community, namely, 'Hindu-Parayan' and he possessed 9th Standard educational qualification. The 4th Respondent had

called for names of eligible persons from the District Employment Officer, Perambalur, who is the 5th Respondent herein, for appointment to the post of Village Assistant and the 5th Respondent had also sent a list of five names, including the name of the Petitioner and the 6th Respondent. In the interview conducted on 16.12.2010 by the 4th Respondent, the Petitioner appeared. However, by the impugned order, the 4th Respondent had appointed the 6th Respondent in the said post. Hence, contending that since the 6th Respondent is junior than the Petitioner and he possessed only 8th Standard educational qualification, but whereas, the Petitioner had completed 9th Standard, the 6th Respondent is not eligible to be appointed in the said post and consequently, the impugned order of appointment, appointing him as the Village Assistant is illegal, this Writ Petition has been filed.

4. On the other hand, the learned Additional Government Pleader for the Respondents 1 to 4, by filing a counter affidavit on behalf of the Respondents 1, 3, 5 and 6, has contended that since the Petitioner had already completed the upper age limit of thirty five years even before the date of sponsoring by the Employment Exchange concerned, in the light of the GO.Ms.No.521, dated 17.06,1998, which prescribes the upper age limit of 35 years for appointment to the post of Village Assistant for SC/ST Category, as on the date of sponsoring by the Employment Exchange, he was not considered for such appointment and that without exhausting the remedy of filing an appeal before the 3rd Respondent, he had filed this Writ Petition. He would further submit that the minimum requisite educational qualification prescribed under the said GO for the said post is 5th Standard and that since the 6th Respondent had attained the age of 28 years and had completed 8th Standard educational qualification, he was rightly appointed to the said post and hence, this Writ Petition, challenging the appointment of the 6th Respondent is to be dismissed.

5. It is contended by the learned counsel for the 6th Respondent, by filing a separate counter, that since the 6th Respondent had satisfied all the requirements, in respect of educational qualification and age limit, as per the Special Rules for the post of Village Assistant, his appointment to the said post was in order and that even as per his own records, the Petitioner did not fulfil the requirement with regard to the upper age limit.

6. Since the Petitioner was denied the appointment in question mainly on the ground of not attaining the upper age limit prescribed and in order to arrive at a just and fair conclusion as to whether the appointment of the 6th Respondent is proper or not and whether non-consideration of the Petitioner for such appointment is illegal, at the outset, it is relevant and necessary to refer to the Special Rules 5 and 6 stipulated in GO.Ms.No.521, dated 17.6.1998, as under:-

"5. Age:- No person shall be eligible for appointment to the post by direct recruitment unless he has completed or will complete the age of twenty one years or if he has completed or will complete the age of thirty years on the date of sponsoring, by the Employment Exchange.

Provided that in case of persons belonging to any of the Backward Classes or Most Backward Classes and Denotified Community or Schedule Castes or Schedule Tribes, the upper age limit shall be thirty five years.

6. Educational Qualification:- No person shall be eligible for appointment to the post unless he has passed V Standard in a recognised, School, namely, a School maintained by or open with the sanction of the Government of Tamil Nadu or to which recognition has been accorded by the Director of School Education under the Tamil Nadu Educational rules with sufficient knowledge to read and write Tamil."

7. It is seen from the above Special Rules that for appointment to the post of Village Assistant, under the categories of BC or MBC and Denotified Communities and SC/STs, the candidate should have possessed the requisite educational qualification of minimum 5th Standard and also should have satisfied the upper age limit of 35 years. The Petitioner possessed 9th Standard educational qualification and the 6th Respondent had passed 8th Standard. Though the Petitioner had possessed higher educational qualification than the 6th Respondent, while as per the GO.Ms.No.521, dated, 17.6.1998, the minimum upper age limit prescribed is 35 years, since the Petitioner had already attained the age of 35 years as on the date of sponsoring the names for such appointment by the concerned Employment Exchange, it cannot be said that denial of appointment in question to the Petitioner is illegal and that the appointment of the 6th Respondent as the Village Assistant is illegal, since the 6th Respondent had fulfilled the age criteria of 35 years, as he was aged 28 years at the relevant point of time.

8. It is also pertinent to note that none of the documents filed by the Petitioner shows that the Petitioner had not crossed the upper age limit of 35 years as on the date of sponsoring by the Employment Exchange.

9. In the typed set of documents, the Petitioner has filed

his SSLC Certificate and Transfer Certificate and also filed the Transfer Certificate of the 6th Respondent. In the said documents, the date of birth of the Petitioner is given as 01.06.1975 and that of the 6th Respondent is given as 21.04.1982. The names of the Petitioner and the 6th Respondent were sponsored by the Employment Exchange, concerned, on 22.11.2010, as per the call letter, dated 09.12.2010 issued to the Petitioner. The interview was conducted on 16.12.2010. Thereafter, the impugned order came to be passed, appointing the 6th Respondent in the post of Village Assistant.

10. From the above said documents and dates of events, one could easily infer that the Petitioner had already crossed the age of 35 years, which is the minimum upper age limit prescribed under the above said GO for appointment in question and that the 6th Respondent had fulfilled the requisite educational qualification and the age criteria. Even as per the documents filed by the Petitioner himself, it can safely be held that the contention of the Petitioner that he had requisite age qualification at the relevant point of time is not sustainable.

11. In the light of the above said Special Rules as contemplated in the said GO, this Court is of the considered view that the Petitioner was rightly denied of the appointment in question, since he did not possess the requisite prescribed qualifications, particularly, the upper age limit criteria and accordingly, this Writ Petition is liable to be dismissed, as there are no merits.

12. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Srcm

To

- 1.The District Collector, Perambalur
- 2.The District Revenue Officer, Perambalur
- 3.
- 4.The Revenue Divisional Officer, Perambalur

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5.The Tahsildar, Veppanthattai, Perambalur

6.The District Employment Officer, Perambalur

+1cc to Mr.L.P.Balajiram, Advocate, S.R.No.77783

+1cc to Mr.P.Ganesan, Advocate, S.R.No.77622

+1cc to the Government Pleader, S.R.No.77694

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SAI (CO)
GSP (05/12/2018)



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