

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 10714 of 2018

and

W.M.P.No.12654 of 2018

V.Kumarasamy

..Petitioner

Vs

1.State of Tamil Nadu, rep. By its Secretary to Government,
Rural Development & Panchayat Raj Department,
Secretariat, Fort St. George, Chennai - 600 009.

2.The State Commissioner,
Commissionerate for the Welfare of the Differently Abled,
No.5, Kamarajar Salai, Lady Willington College Campus,
Chennai - 600 005.

3.The District Collector,
Collectorate, Coimbatore District.

4.The Special Officer/ Block Development Officer
(Village Panchayat),
Sultanpettai Taluk, Coimbatore District.

..Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue of Writ of Mandamus, directing the 4th respondent to accept the petitioner's Application dated 02.04.2018 to the post of Village Panchayat Secretary at Appanaickenpatty, Coimbatore District, and to consider the petitioner's candidature under the Differently Abled/Physically Challenged with blindness & low vision under General Turn and/or SC Turn with necessary concessions/relaxations.

For Petitioner

:Mr.A.Mohamed Ismail

For Respondents 1 to 3

:Mr.V.Kadhirvelu

Special Government Pleader

For Respondent 4

:Mr.M.Thamizharasan

O R D E R

The relief sought for in this writ petition is for a direction to direct the 4th respondent to accept the petitioner's application dated 02.04.2018 to the post of Village Panchayat Secretary at Appanaickenpatty, Coimbatore District, and to consider the

petitioner's candidature under the Differently Abled/Physically Challenged with blindness & low vision under General Turn and/or SC Turn with necessary concessions/relaxations.

2.Appointment can never be claimed as a matter of right. Consideration of applications submitted by the respective candidates alone are to be considered as right. All appointments are to be made only by following the recruitment rules in force. Equal opportunity in public employment is a constitutional mandate. There cannot be any discrimination in the matter of considering the applications by the competent authorities. Thus, the constitutional perspectives require that the authorities competent act in a fair and reasonable manner, so as to complete the selection in accordance with the constitutional mandates. The fair and reasonable procedures are the inherent ingredients of the constitution. Thus, it is not as if the authorities can choose the candidates at their choice. The procedures are to not only be fair but it must seem to be fair. Therefore, this Court is of an opinion that the equality clause as enshrined under the Constitution of India in respect of providing equal opportunity to all the eligible candidates, who are aspiring for public employments, are to be followed scrupulously. The authorities violating the rules are to be prosecuted under the Discipline and Appeal Rules. There cannot be any violation of recruitment rules in respect of appointments in public service. This practice of providing appointment in violation of recruitment rules and thereafter granting the relaxation or otherwise and such practices are to be deprecated. The Constitution Bench of the Hon'ble Supreme Court of India has held that irregular or illegal appointments are to be stopped at once. The Constitution Bench has emphasized that the public authorities are bound to act in accordance with the Constitutional principles and all appointments are to be made only in accordance with rules in force. This apart the Apex Court of India in the case of The State of Karnataka Vs Umadevi, reported in 2006 4 SCC Page No.1, held that all irregular and illegal appointments are to be stopped and all public appointments are to made only by following recruitment rules in force.

3.The grievances of the writ petitioner is that his application seeking appointment to the post of Village Panchayat Secretary pursuant to the notification issued by the fourth respondent in proceedings dated 26.03.2018 in not considered.

4.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is fully qualified for the post of Village Panchayat Secretary and his application and candidature should be considered under the Differently abled /Physically challenged with blindness & low vision under the General turn and /or SC turn with necessary concessions /relaxations.

5. Relaxation can never be granted in a routine manner. Relaxations are to be granted only on exceptional circumstances in

order to mitigate an injustice if any occurred to any candidate. Thus, the power of relaxation of the Government cannot be exercised in a routine manner so as to favour the candidates. This being the legal principles to be followed, the respondents are bound to follow the recruitment rules in force. Thus, the contention raised in this writ petition cannot be adjudicated at this point of time. The authorities are bound to follow the recruitment rules while undertaking the process of recruitment.

6. This being the factum of the case, this court is of an opinion that the writ petitioner has not established even a semblance of right, so as to entertain the relief as such sought for in this writ petition. It is made it clear that the respondents at the time of undertaking the process of selection has to follow the recruitment rules in force strictly and in accordance with law.

7. Accordingly, this writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

may

To

- 1.The Secretary to Government,
Rural Development & Panchayat Raj Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The State Commissioner,
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- 3.The District Collector,
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- 4.The Special Officer/ Block Development Officer
(Village Panchayat),
Sultanpettai Taluk, Coimbatore District.

+1 cc to Mr.A.Mohamed Ismail, Advocate SR.NO. 31816

+1 cc to the Government Pleader, High Court, Chennai -104 SR.NO. 31749

W.P.No. of 10714 of 2018 and
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NA(CO)
JK 11/05/18