

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.25926 of 2017 and WMP.27472 of 2017

T.Ramesh

.. Petitioner

Vs

1. The Principal Secretary to
the Government,
Backward classes,
Most Backward Classes and
Minorities Welfare Department,
Secretariat, Chennai - 5.

2. The Commissioner,
Most Backward Classes and
Minority welfare Department,
Secretariat, Chennai - 5

3. The District Backward Classes and
Minorities Welfare Officer,
Tiruvallur District, Tiruvallur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to consider the petitioner's representation submitted on 28.07.2017 to the respondents for promotion of the petitioner as Driver in the 3rd respondent.

For Petitioner : Mr.V.Ramamurthy

For Respondents : Mr.N.Srinivasan,
Additional Government Pleader

ORDER

The case of the petitioner is that he is working as a Cook in Government Most Backward Welfare School Hostel, Periyapalayam, Thiruvallur District under the Backward Classes, Most Backward Classes and Minorities Welfare Department which has been carved out from the Adi Dravidar and Tribal Welfare Department. Though the 3rd respondent temporarily absorbed and assigned driving work, the petitioner's case has not been considered for promotion to the post of Driver on account of age

limit prescribed in the adhoc rules framed by the Government for the Backward class Department. In this regard, he has made a representation to consider his case for appointment as Driver against the vacancy caused, by transfer relaxing the aforesaid age limit prescribed. The learned counsel appearing for the petitioner would submit that the case of the petitioner is covered by the decision of this Court rendered in WP(MD) No.3209 of 2015, wherein this Court has categorically held that such an age limit should not stand on the way of the persons who are working in the department itself, but the same in respect of persons who are appointed on transfer from any other department. Placing reliance on the same, the petitioner in this case has made a prayer seeking for a direction to consider his representation, which is pending with the respondents within a stipulated time frame.

3. Counter affidavit has been filed by the respondents indicating the fact that though the petitioner possessed all requisite qualification to be promoted as a Jeep Driver, since he has crossed the age limit as per G.O.Ms.No.46, Backward Classes, Most Backward Classes and Minorities Welfare Department dated 01.08.2014 and as such, the petitioner has no case, so also, there is no vacancy for Driver Post in the office of the 3rd respondent and hence, prays for dismissal of this writ petition.

4. Be that as it may, since this Court taking note of the fact and circumstances has held that the age limit prescribed under the Government Order will not be applicable to the persons who are working in the same department and applicable to the persons who are appointed on transfer from other department and accordingly, this Court directs the respondents to consider his representation dated 28.07.2017 in this regard. When vacancy arises, without regard to the age limit, if the petitioner is otherwise qualified to be appointed as a Driver, in the light of the law laid down by this Court in WP (MD) No.3209 of 2015.

5. With the aforesaid order, this writ petition stands disposed of. Consequently, the connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary to
the Government,
Backward classes,
Most Backward Classes and
Minorities Welfare Department,
Secretariat, Chennai - 5.

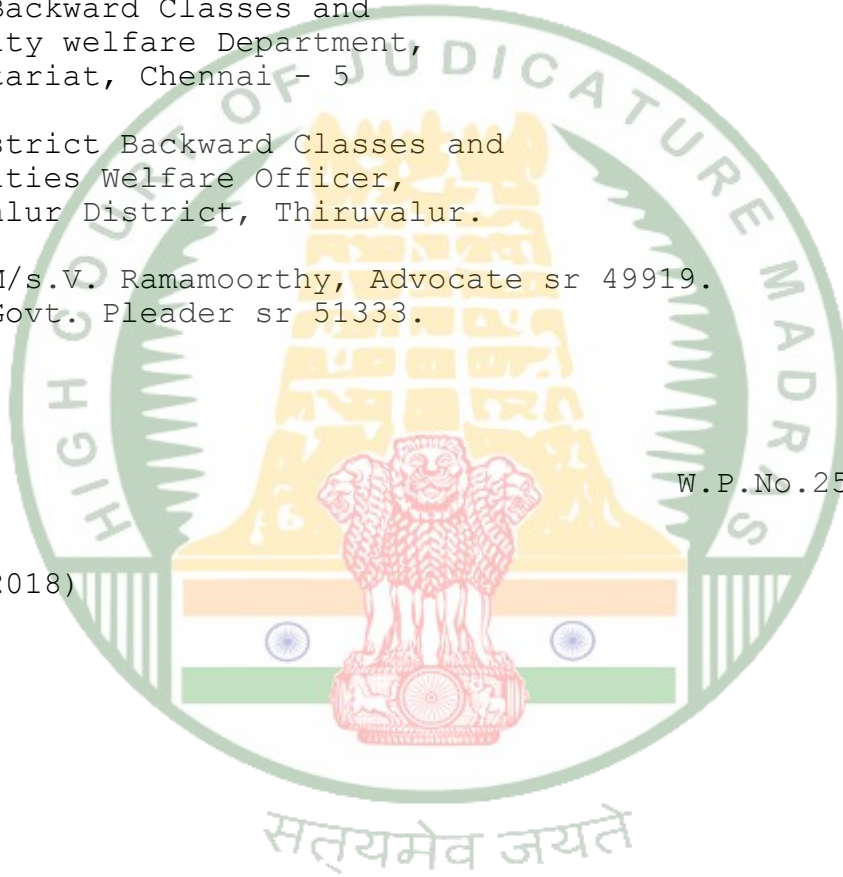
2. The Commissioner,
Most Backward Classes and
Minority welfare Department,
Secretariat, Chennai - 5

3. The District Backward Classes and
Minorities Welfare Officer,
Tiruvallur District, Tiruvallur.

+1 CC to M/s.V. Ramamoorthy, Advocate sr 49919.
+1 CC to Govt. Pleader sr 51333.

W.P.No.25926 of 2017

SP(09/08/2018)



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