

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.Nos.8932 of 2015 and WP No.29451 of 2016 and

MP.No.1 of 2015 and WMP Nos.25497, 25568 of 2016

WP No.8932 of 2015

R.Selvaraj

..Petitioner

Versus

The District Backward Class and
Minority Welfare Officer,
Collectorate,
Salem - 1

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Mandamus directing the respondent to appoint the petitioner for the post of Jeep Driver in the respondent department based upon the merit, technical knowledge, qualification and experience of the petitioner and marks obtained in the Technical Test.

WP No.29451 of 2016

R.Selvaraj

..Petitioner

Versus

1. The Collector,
Salem District,
Salem,

2. The District Backward Class and
Minority Welfare Officer,
Collectorate,
Salem - 1

3. A.Settu

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified Mandamus to call for the records relating to the proceedings in Na.Ka.No.3047/15/BC7 dated 12.08.2016 and the consequential order in Na.Ka.No.3047/2015/BC7 dated 12.08.2015 (signed on 12.08.2016) on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to appoint the petitioner for the post of Jeep Driver in the respondent Department based upon the merit, technical knowledge, qualification and experience of the petitioner and marks obtained in the Technical Test.

For Petitioner in both WPs: Mr.S.Doraisamy
For Respondent in : Mr.V.Kadhirvelu
WP No.8932 of 2015 Special Government Pleader
For Respondents in
WP No.29451 of 2015 : Mr.V.Kadhirvelu,
Special Government Pleader for
respondents 1 and 2
Mr.M.Ramdoss for 3rd respondent

O R D E R

The petitioner filed this writ petition No.29451 of 2016 under Article 226 of Constitution of India has been filed challenging the appointment of the 3rd respondent as a Jeep Driver in the 2nd respondent office, on promotion and consequently, seeking for a direction to the 2nd respondent to appoint the petitioner for the post of Jeep Driver in the 2nd respondent Department based upon the merit, technical knowledge, qualification and experience of the petitioner and marks obtained in the Technical Test.

2. The Counter affidavit of the 2nd respondent would indicate the fact that though the aforesaid post is to be filled up by internal promotion who are having the knowledge of driving, but the G.O.Ms.No.46, Backward Classes, Most Backward Classes & Minorities Welfare (MWRU) Department Dated 01.08.2014, clearly reveals that if a most senior when qualifies in the test of driving, even if his juniors qualify, the senior shall be posted against the existing vacancy.

3 During the course of hearing, the learned counsel appearing for the petitioner submits that no doubt the 3rd respondent is entitled to appointment and as such, the petitioner has no case. But the Government may consider the case of petitioner, who is having driving qualification, in respect of any vacancy available in any other District. The learned counsel would further submit that if such a representation is

made by the petitioner in this regard, a direction may be given to the respondents to consider and dispose of the same, within the time stipulated by this Court.

4 The same is vehemently objected by the learned counsel appearing for the respondents 1 and 2 with the submissions that the Seniority within the office being the Rule to fill up such vacancy, the petitioner prayer in this regard is prejudicial to the interest of the employees working in an office where such vacancy of driver post is there. Hence, the writ petition be dismissed without the relief now sought for.

5 Regard being had to the aforesaid facts and circumstances, submissions made, this Court finds no reason to interfere with the appointment of the 3rd respondent in the writ petition No.29451 of 2016. However, it is open to the petitioner, if so advised to make representation to the 1st and 2nd respondent to consider his case for appointment as Driver in any other vacant position in the department under which he is working and if such representation is made, it is open to the respondents 1 and 2 to consider and dispose of the same on merits and in accordance with law, within a period of two months from the date of receipt of copy of this order. But, the aforesaid observation should not be construed as a mandate of this Court to consider the representation of the petitioner in any particular manner.

6 With the aforesaid order, the above writ petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

rka

To

1. The Collector,
Salem District,
Salem.

WEB COPY

2. The District Backward Class and
Minority Welfare Officer,
Collectorate,
Salem - 1.

+1cc to S.Doraisamy, Advocate Sr.39324
+1cc to Mr.M.Ramdoss, Advocate Sr.39652

W.P.Nos.8932 of 2015 and WP No.29451 of 2016

srg 25/07/2018



WEB COPY