

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.03.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition No.33302 of 2013

K.Sathyaseelan

.. Petitioner

Vs.

The Member Secretary cum
Additional Chief Educational
Officer (SSA), Villupuram District,
Villupuram.

..Respondent

Prayer: Writ Petition filed under Article 226 of the
Constitution of India, to issue a Writ of Mandamus directing the
respondent to recruit the petitioner as a physical education
instructor immediately without any further delay in any of the
school at Villupuram District on the basis of interview
conducted on 05.01.2012 and selection list published in the
internet (call letter No.248).

For Petitioner : Mr.D.Govinda Reddy

For Respondent : Mr.R.Govindasamy

Special Government Pleader

O R D E R

The petitioner seeks for a direction to the respondent to
recruit him as 'Physical Education Instructor' immediately
without any further delay in any of the school at Villupuram
District, on the basis of the interview conducted on 05.01.2012
and selection list published in the internet (call letter
No.248).

2. The brief facts of the case are as follows:-

(i) The petitioner has passed Higher Secondary Examination
on 25.05.1995 and joined in BVN College of Physical Education
and appeared for the Examination held in May 2001 and passed the
examination on 28.07.2001 conducted by Karnataka Secondary
Education Examination Board. The said physical education
certificate issued by the Karnataka Secondary Education
Examination Board was evaluated as per the proceedings of the
Director of School Education, Government of Tamil Nadu in
Pro.No.Ne.Mu.No.001827 T 7 / 2003 dated 2.3.2004. The
petitioner registered in the District Employment Exchange,

Villupuram on 17.08.2001 and continuously renewing his registration and waiting for employment opportunities.

(ii) As per Government Order issued in G.O.Ms.No.177, School Education Department, dated 11.11.2011 and as per letter Na.Ka.No.1115 A5/AKAE/2011 dated 15.12.2011 of the Director of State Educational Scheme for all, applications were called for the post of Part-time Instructor in Government Schools. The petitioner also applied for the post of Physical Education Instructor. The respondent by his proceedings, dated 29.12.2011, sent call letter to the petitioner to appear for interview for the post of appointment of Part-time Teachers in the Panchayat Union Middle Schools, Government High School and Higher Secondary School at Villupuram District, with relevant certificates. Accordingly, the petitioner also appeared for the interview with all relevant certificates before the Educational Authority on 05.01.2012 conducted at Government Girls Higher Secondary School, Villipuram. The selection list was published in the internet for the post of Part-time Instructor and as per the selection list, the petitioner has been selected for the post of 'Health and Physical Education Part-time Instructor'. His call letter No.248 was also found in Column No.1 under the category of Health and Physical Education Item No.17 from Top of selection list. The petitioner was under the impression that on the basis of selection list, appointment order will be issued to him automatically. Therefore, the petitioner was waiting with fond hope that he would be appointed in the post of Health and Physical Education Part-time Instructor on the basis of the selection list published in the internet. Though the petitioner's father has approached the authorities and sent applications seeking particulars under Right to Information Act, the information authority has not given correct details. Even though the petitioner has been selected on the basis of the interview conducted by the Additional Chief Educational Officer (SSA), Villupuram and his call letter No.248 was found in the list published in the internet, the authority has not provided the appointment to the petitioner. Hence, the petitioner filed the present writ petition seeking the relief as stated supra.

3.A counter affidavit has been filed by the respondent, wherein it has been stated as follows:-

(i) The petitioner filed the present writ petition to direct the respondent to recruit him as a Physical Education Instructor immediately without any further delay in any one of the school at Villupuram District on the basis of the interview conducted on 05.01.2012 and selection list published in the internet (call letter No.248). The petitioner is the resident of Tirukoilur and possessing the requisite qualification for appointment to the post of Physical Education Teacher. He has

also registered his name with the District Employment Office, Villupuram. During the month of December 2011, he had applied before the Chief Educational Officer, Villupuram for appointment to the post of Physical Educational Teacher. In the month of January 2012, he had attended the certificate verification and interview, but he was not selected for appointment by the Committee exclusively formed for the selection. Further, the Government had issued in G.O.Ms.No.177, School Education (C2) Department, dated 11.11.2011 permitting for appointment of 16549 Part-time Instructors in Government Schools for VI to VIII standards under various subjects. For the recruitment of the Part-time Instructors, it has been ordered therein to constitute a committee consisting of the Chief Educational Officer as the Chair person, the Additional Chief Educational Officer (S.S.A) as the Member Secretary and the District Elementary Educational Officer as the Member of the revenue district concerned and to make recruitment of the Part-time Instructors. It has been permitted to recruit 405 Part-time Instructors in the subject of Physical Education for Villupuram District by calling the applications directly from the candidates and obtaining the list of candidates from the District Employment Office, Villupuram. Accordingly, notifications were published in dailies calling for applications and list of candidates was obtained from the District Employment Office, Villupuram for this recruitment. Necessary process was made by the Recruitment Committee and call letters were sent to all the eligible candidates who have applied for such appointment. Further, in the case of the petitioner is concerned, call letter was sent to the petitioner to attend the certificate verification and interview on 05.01.2012 and he had also attended the certificate verification and interview on the said date like other candidates. But he was not selected for appointment to the post of Physical Education Teacher. The petitioner had misunderstood that he was selected for the post of Health and Physical Education Instructor. According to the list of persons selected for appointment to the post of Part-time Health and Physical Education Instructors, the name of the petitioner is not found a place therein. The persons were selected by the Selection Committee constituted as stated supra and the selection list was prepared and published after careful scrutiny and approval of the Chairperson, Member Secretary and the Member. The petitioner has not watched the list properly and he was in a wrong conclusion that he was selected for that post. He has also given a wrong statement in the affidavit that he had seen his name through the internet in the selection list.

(ii) Further, the petitioner's call letter number was 248 and one Durai call letter number was 284. The names of candidate's were not given in the selection list, only the call

letter number is given. In item number 17 from top of the said list, the name of the candidate N.Durai, his call letter number is 284, but the same was wrongly typed as 248. This was found only at the time of interview to rectify the same the petitioner was allowed to attend the interview; even then the petitioner has not secured eligible mark. Hence, his name was not selected by the Selection Committee. To rectify the said manual mistake, the respondent issue new list along with candidate's name, reservation, date of birth and eligible list number. The said list was prepared and published based on the interview marks. The petitioner scored 24 marks out of 50 and said Durai scored 41 marks out of 50. The petitioner cannot come under the zone of consideration, hence, the petitioner was not considered for the post. The post of Part-time Instructor was announced by the Government in the year of 2011, thereafter, there is no recruitment for the said post by the Government and the post is also a temporary basis post and not permanent post.

(iii) The claim made by the petitioner that he was selected by the Selection Committee is not true and that the petitioner was not selected by the Selection Committee so that he was not given appointment. Further, the powers for making of appointment as per the orders contemplated in G.O.Ms.No.177, School Education (C2) Department, dated 11.11.2011, is not vested with a single person and it is vested with the persons belongs to the Committee constituted for that purpose. The non-selection of the petitioner for appointment is in order and there is no violation in the selection process and the selection process was done in accordance with the Government Order and there is no wrong in it and the claim of the petitioner is not admissible. Further, the action of the respondent is quite in order, just and legal. The manual mistake made by the respondent office is not intentional and there is no specific reason for the respondent to prevent the petitioner in attending the interview, since the mistake was done due to printing mistake and the same was rectified and new list also published. Further, the above said fact was already informed to the petitioner and also in the selection list candidate's name, Reservation, Date of Birth and eligible list number was also published, even then the petitioner has not secured the qualified mark. Hence, the respondent cannot recruit the petitioner as a Physical Education Instructor as if seeking in the writ petition.

4.A reply affidavit has been filed by the petitioner, wherein it has been stated as follows:-

The petitioner has filed the present writ petition for the relief as stated supra. The selection list was published in the internet www.villupuram.nic.in for the post of part time

instructor and as per the selection list, the petitioner has been selected for the post of Health and Physical Education Part-time Instructor and his call letter number 248 also found place in item No.17 in column No.1 under the category of Health and Physical Education and hence he was under the legitimate expectation that he will be given appointment automatically. But, the authority has not appointed him. The respondent filed a counter stating that the petitioner has not watched the selection list properly and given a wrong statement in the affidavit that he had seen his name in the list through the internet. But the list produced by the respondent before this Court which contains the particulars of reservation category, priority, non-priority, gender, date of birth and name and also the eligible list serial numbers, has neither been published in the internet nor affixed in notice board of the office at Villuupuram as required by Guidelines prescribed in G.O.(Ms) No.177, School Education (C2) Department, dated 11.11.2011. The petitioner denied the statement of the respondent that the petitioner stated in his affidavit that his name is found place in the list published by the respondent. On the other hand, the petitioner only stated that his call letter No.248 was found place in the list published in the internet. Hence, the petitioner denies all the contentions made by the respondent in the counter affidavit and he stated that the respondent has not followed the procedures prescribed in G.O.(Ms) No.177, School Education (C2) Department, dated 11.11.2011. Therefore, he prayed this Court to direct the respondent to recruit him immediately as Physical Education Instructor in any of the school in Villupuram District.

5.I have carefully considered the submissions made on either side and perused the records.

6.On a perusal of the counter affidavit filed by the respondent and also the list of selected candidates for the post of Part Time Physical Education Instructor, this Court finds that there are so many contradictions in the statement made by the respondent. In one place, the respondent stated that the call letter number of the petitioner viz., 248 was wrongly entered in the list in stead of 284 which belong to one Mr.Durai who scored 41 marks out of 50 marks, but, in the eligibility list, serial number of Mr.N.Durai is given as 479 as published by the respondent. Further, the eligible list number 248 is found place in serial No.168 and the name of the candidate is Mr.A.Senthilkumar. As stated by the respondent there is no eligible list serial number of 284, found place in the list produced by the respondent before this Court. Further, no document is produced by the respondent before this Court to

substantiate the contention that the petitioner has scored only 24 marks out of 50 marks and the petitioner has not come under the zone of consideration. Though the respondent has given so many particulars in the list of selected candidates for the post of Part Time Physical Education Instructor, the marks scored by the candidates, who appeared for the interview, have not been furnished. Therefore, this Court smells rat in the selection process, especially in the case of the petitioner. Hence, this Court is of the opinion that the petitioner is entitled to be appointed as Physical Educational Instructor as per the list originally released by the respondent in the internet, showing the call letter number of the petitioner amongst other numbers, who had been duly selected for the post.

7. In the result,

(a) this Writ Petition is allowed;

(b) the respondent is directed to appoint the petitioner as Physical Education Instructor in any of the school under the control of the respondent, based on the interview conducted on 05.01.2012 in the selection list published in the internet in call letter No.248;

(c) the said exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

(d) There shall be no order as to costs .

Sd/-
Assistant Registrar(IX)

//True Copy//

Sub Assistant Registrar

To
The Member Secretary cum
Additional Chief Educational
Officer (SSA), Villupuram District,
Villupuram.

+1cc to Mr.D.Govinda Reddy, Advocate Sr.No.24057
+1cc to Government Pleader SR.No.24636

sm:16.8.2018

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