

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.25074 of 2008 and  
M.P.No. 1 of 2008

A.Ravichandran ...Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep by its Secretary,  
Revenue Department,  
Fort. St. George, Chennai-9.
2. The Special Commissioner &  
Commissioner of Revenue Administration,  
Chennai-5.
3. The Thasildar,  
Cheyyur Taluk, Cheyyur,  
Kancheepuram District.
4. The District Employment Officer,  
Kancheepuram District Employment Office,  
Kancheepuram. ...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 3<sup>rd</sup> respondent to consider the petitioner for appointment as a Village Assistant in Cheyyur Taluk.

For Petitioner : Mr..K.Sathiskumar  
For Respondents : Mr.R.S.Selvam,  
Government Advocate

ORDER

The petitioner has sought for a Writ of Mandamus, to direct the 3<sup>rd</sup> respondent to consider the petitioner for appointment as a Village Assistant in Cheyyur Taluk.

2. The case of the petitioner is that he has passed his S.S.L.C. Examination in April 1991 and he has registered in the 4<sup>th</sup> respondent namely the District Employment Office, Kancheepuram District, Employment Office, Kancheepuram, on 23.07.1990, with the Registration No.10351 of 1990. He belongs to Most backward class. He would contend that in the year 2006, the Government has issued a G.O, which states that for the appointment to Government post the maximum age limit was extended upto 45 years and he must be given an opportunity for getting a job as per the said G.O.

3. It is seen from the records that the state Government has issued G.O.Ms.No.429, Revenue (Ser.8(1)) Department, dated 08.08.2007 for recruitment of 3,674 Village Assistants in the state of Tamil Nadu, from the candidates sponsored by the employment exchange as per the seniority, who are in the live register in the ratio of 1:5. The 4<sup>th</sup> respondent herein, has sponsored the petitioner's name for the post of Village Assistant in Cheyyur Taluk. The qualification for the said appointment is to read and write tamil and know cycling and physically fit for the said post and as the petitioner fulfilled all qualification he is fully qualified for the said post. That apart, the candidate should produce all the originals of Employment Exchange Registration card, Educational Certificate and Community Certificate, if called for interview. Accordingly, the petitioner was called for the interview vide proceedings Na.Ka.2781/2006 A8 dated 12.09.2007, which was duly communicated to the petitioner and accordingly the petitioner had attended the interview.

4. After that, the petitioner has not received any joining letter from the 3<sup>rd</sup> respondent, but he had received another interview letter from the 3<sup>rd</sup> respondent vide Na.Ka.No.6958 of 2008 /A8 calling him to appear on 17.07.2008 by 10:00 A.M before the 3<sup>rd</sup> respondent and further he was asked to produce all original certificates as instructed previously. The petitioner was not issued with any appointment order but his juniors in Cheyyur Taluk were given appointment. Out of the 59 vacancies available for the post of Village Assistant, now 14 vacancies are available in the petitioner's locality. Therefore, the petitioner has approached the authorities and made a representation dated 20.08.2008 to consider his case. Inspite, of the said representation he has not been given a chance and doors of the appointment to the petitioner have been closed. Having no other alternative the petitioner has approached this Court by way of filing this writ petition.

5. Third respondent has filed a counter affidavit wherein it is stated that the petitioner belongs to MBC category and born

on 21.03.1973. The G.O.Ms 429 Rev(Ser8(1) Department dated 08.08.2007 has prescribed the upper age limit for other than SC and ST at 35 years. When the petitioner had applied for the said post in the year 2007 he was nearly 44 years and 5 months i.e on the verge of upper age limit and at this time he would have completed 54 years. The petitioner was not considered for the post of Village Assistant in 2008 as there was no vacancy within a radius of 5 km from his residence Cheyyur Village. It is further submitted that one Thiru.E.Ashokan who was not considered earlier was considered for Village Assistant on the directions of this Hon'ble High Court in W.P.No. 5574 of 2008 dated 19.03.2008 when vacancy of village Assistant available in 117 Atchivillagam, Cheyyur Taluk on 09.09.2008 based on above direction the petitioner now prays for the same. In conclusion it is submitted that the petitioner was not considered for appointment as there was no vacancy of Village Assistant in 2008 within 5 kms from his residence village Cheyyur. However, as per the directions of this Court in M.P.No.1 of 2008, dated 20.10.2008 one post of Village Assistant is still kept vacant. From 2009, the petitioner is not eligible for appointment as he neared 45 years upper age limit. Hence, the respondents prayed for dismissal of the writ petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials available on record.

7. From the perusal of the records it could be seen that one post of Village Assistant is kept vacant till now by the respondent, as per the orders of this Court dated 20.10.2008 made in M.P.No.1 of 2008. It is wrongly stated in the counter that at the time of application in 2007, the petitioner was aged 44 years and 5 months on the verge of the upper age limit. But while taking the date of birth of the petitioner as 21.03.1973 ( as stated by the third respondent in his counter), at the time of application in the year 2007, the petitioner was aged 34 years (and not 44 years as alleged in the counter). Hence, the petitioner is within the upper age limit of 35 years at the time of application.

8. On perusal of G.O.(M.S) No. 521, Revenue Ser.Vii(2) Department dated 17.06.1998, produced by the learned Government Advocate, it could be seen that the upper age limit for the post of Village Assistants belonging to BC/MBC/Denotified Community/Sc/ST/ shall be thirty five years, which is extracted as follows:

"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 classed and denotified communities or schedule castes or a schedule Tribes, the upper age limit shall be thirty five years."

9. That apart, the Government vide G.O.Ms.No. 98 P & AR Department dated 17.07.2006, relaxed the upper age limit by 5 years, which is evidenced from the following:

"The Government after careful consideration, accordingly direct that the upper age limit for entering the Government Service shall be relaxed by five years, to enable the unemployed youth affected by the ban order on recruitment to apply for Government jobs."

10. Hence, at the time of filing application for the post of Village Assistant in the year 2007, the petitioner is within the upper age limit. But, the 3<sup>rd</sup> respondent misrepresented before this Court. The said act of the third respondent is condemned.

11. In view of the above, as the petitioner is within the upper age limit at the time of application in the year 2007 and one post of Village Assistant is kept vacant till date, the 3<sup>rd</sup> respondent is directed to appoint the petitioner in the said vacant post which is kept vacant as per order of this Court dated 20.10.2008/03.11.2008. Accordingly, the writ petition is allowed. No costs. Consequently connected M.P. is closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,  
Revenue Department,  
Fort. St. George, Chennai-9.
2. The Special Commissioner &  
Commissioner of Revenue Administration,  
Chennai-5.
3. The Thasildar,  
Cheyyur Taluk, Cheyyur,  
Kancheepuram District.

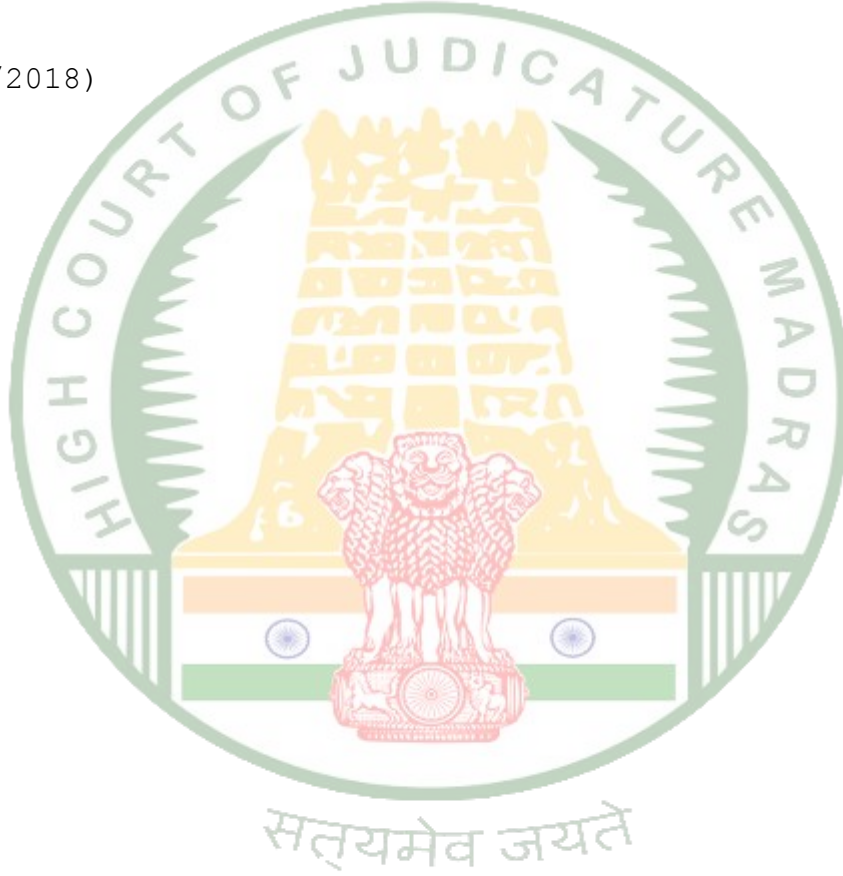
4. The District Employment Officer,  
Kancheepuram District Employment Office,  
Kancheepuram.

+1cc to Mr.K.Sathish Kumar, Advocate, S.R.No.41690

+1cc to the Government Pleader, S.R.No.41901

W.P.No.25074 of 2008 and  
M.P.No. 1 of 2008

BR (CO)  
GSP (13/11/2018)



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