



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.3130 of 2015

and M.P. (MD) No.1 of 2015

V.Shunmugaraj

... Petitioner

-vs-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Commissioner,
Thoothukudi Panchayat Union,
Thoothukudi.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to implement the order of appointment issued by him in Na.Ka.No.A1/5246/2013, dated 07.11.2013 in appointing the petitioner as Jeep Driver within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.M.Pandiarajan, AGP for R1
Mr.N.S.Karthikeyan for R2

O R D E R

This petition has been filed, seeking a direction to the 2nd respondent to implement the order of appointment to the post of Jeep Driver, issued in Na.Ka.No.A1/5246/2013 dated 07.11.2013, thereby appointing him as a Jeep Driver within a time frame.

2. The case of the petitioner is that he belongs to Scheduled Caste category and had completed his HSC in the year 1992. He got himself enrolled in the District Employment Exchange Office, having Reg.No.9241 of 1998 and he, having been fully eligible to apply for the post of Driver, his name was sponsored by the District Employment Exchange to the 2nd respondent and that he was also issued a call letter dated 03.10.2013 by the 2nd respondent for interview. It is the grievance of the petitioner that though he was duly interviewed and selected for the post by proceedings dated 07.11.2013, he was not allowed to join duty without assigning any reason.

3. The further case of the petitioner is that he subsequently submitted a representation dated 16.12.2013 to the 1st respondent for allowing him to join duty based on the appointment order and the said representation did not evoke any response. The petitioner did not even get any information from the 2nd respondent, when applied through Right to Information Act on 23.07.2014 and having found no other efficacious remedy, the petitioner is before



this Court, seeking for the above direction.

4. A counter affidavit has been filed by the 2nd respondent herein, wherein it has been inter alia stated that though the name of the petitioner was found place in the selection list and an appointment order was also prepared in his name by proceedings dated 07.11.2013, the said order was not communicated to any authority and the petitioner officially, as later on it was found that the petitioner was overage and not qualified to the post and therefore, the 2nd respondent had cancelled the appointment order by another proceedings dated 17.09.2014. It is further contended that the petitioner, having illegally obtained the alleged appointment order dated 07.11.2013 from our office files, cannot claim that it was duly sent to his address by the 2nd respondent. Therefore, it is prayed that this petition is liable to be dismissed *in limine*.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. It is pertinent to mention here that in each and every department, there is a black sheep, whose main duty is to supply copies of Government orders to others for extraneous consideration and the present case is a perfect example for such an act. In this case, once the original appointment order dated 07.11.2013 had not been issued to the petitioner officially and no communication had been received by him to that effect, mere possession of a copy of the order does not entitle him to seek appointment, simply ignoring the fact of his ineligibility to the post. It is appropriate to state here that the post of Driver is a sensitive one and if unfit and overage persons are appointed to the said post, the life of the passenger will certainly be put at risk.

7. Of course, it is true that on 23.10.2013, the petitioner was asked to participate in the interview for selection to the post of Jeep Driver and accordingly, he has participated. In this case, the inference to be drawn, after completion of selection process might be that after preparation of an appointment order in the name of the petitioner, on subsequent scrutiny, it was found that as the petitioner was overage i.e., he was 41 years at the time of selection, the said appointment order dated 07.11.2013 was not given effect to and that the same was also cancelled on 17.09.2014. As the petitioner has managed to get a copy of the said order, with the help of a disrespectable person and that the order of appointment has not been dispatched / communicated to him and without realizing the fact that the said appointment order was subsequently cancelled on 17.09.2014, I am of the view that the petitioner is not entitled to claim any benefit with regard to the selection for the post of Jeep Driver.



8. In fine, this Writ petition is dismissed. However, it is needless to mention here that the respondents are directed to find out the culprit, who is working in the establishment section of the respondents office at the relevant point of time, by way of conducting a detailed enquiry / investigation so as to ascertain the illegal act of handing over a copy of the letter dated 07.11.2013 to the petitioner, when it was not duly issued / dispatched / communicated officially to him and take necessary action against the said errant person in accordance with law. The person, who has parted with the Government documents unofficially is dangerous to the society. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar (CS-II)

To:

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Commissioner,
Thoothukudi Panchayat Union,
Thoothukudi.

+1cc to Mr.N.S.KARTHIKEYAN, Advocate, SR.No. 78273
+1cc to Mr.G.THALAIMUTHARASU, Advocate, SR.No.78378
+1cc to M/s.Special Government Pleader,SR.No.78053

W.P. (MD)No.3130 of 2015
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NBJ/AR

KK/SKN/SAR-2/30.08.2018/3P-6C