



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2018

CORAM:

THE HONOURABLE Mr. JUSTICE S. VAIDYANATHAN

WEB COPY

W.P. (MD) No. 7202 of 2017

and

WMP (MD) Nos. 5682 & 5683 of 2017

S. Satish Kumar

...Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai.
2. The Director of School Education,
O/o. the Director of School Education,
DPI Complex,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
O/o. the Chief Educational Office,
Palakkarai,
Trichy.
4. M. Palaniappan
5. M. Palaniappan

...Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned selection list published by the 3rd respondent vide proceedings Nil dated Nil (pasted in the notice board of the 3rd respondent) and quash the same as illegal insofar as the non-selection of the petitioner is concerned and consequentially to direct the respondents to appoint the petitioner to the post of Lab Assistant under the Ex-service man priority category in pursuant to the notification issued by the 2nd respondent in his proceedings Nil dated within the period that may be stipulated by this Court.

For Petitioner

: Mr. Imaran Mohamed

For M/s. Ajmal Associates

For Respondents

: Ms. S. Srimathi

(R1 to R3)

Spl. Govt. Pleader

For Respondents

: No Appearance

(R4 & R5)

**ORDER**

The Writ Petition has been filed praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned selection list published by the 3rd respondent, vide proceedings Nil dated Nil (pasted in the notice board of the 3rd respondent) and quash the same as illegal insofar as the non-selection of the petitioner is concerned, with the consequential relief directing the respondents to appoint the petitioner to the post of Lab Assistant, under Ex-service man quota, pursuant to the Notification issued by the 2nd respondent in his proceedings Nil, dated Nil.

2. Mr.Imran Mohamed, learned counsel appearing for the petitioner would submit that the petitioner is an Ex-service man and has discharged his duties, as Naik, in Indian Army, for nearly 25 years. The Government of Tamil Nadu issued a Notification, dated 22.04.2015, inviting applications from the eligible candidates, for appointment to the post of Lab Assistants. Since the petitioner is qualified, as per the norms prescribed by the Government, he applied for the post of Lab Assistant. Accordingly, he appeared for the examination held on 31.05.2015 and secured 70 marks. Since the petitioner has not received any call letter and after similarly placed persons received the same, he approached the concerned Authority. Since there was no proper reply, he made a representation to the Authority concerned.

3. It is his further submission that though the petitioner had applied for the post of 'Lab Assistant', under the Ex-serviceman category, due to the mistake committed by the Computer Operator, who received his application and uploaded the particulars in the computer, it was mentioned in the column, 'priority', as 'Not Applicable'. Therefore, the petitioner was not considered under the Ex-service man category and as such, his candidature, despite his merit and ability and also for no fault of him, shall not be rejected.

4. Ms.S.Srimathi, the learned Special Government Pleader appearing for the respondents 1 to 3 would submit that the application has been wrongly filled up and on that score, his case has not been considered under priority Ex-service man category. Secondly, it is stated that if the Lab Assistant post was for the year 2014-15 and that more than 3 years have gone by and that all the posts have been filled up. Further, the Authorities are entitled to reject the entire application on the sole ground that the application was not in order. Since the appointment had already been over and that there was no post available, the petitioner cannot be accommodated. Therefore, it is prayed that the writ petition is liable to be dismissed.

5. In reply, the petitioner once again drew the attention of this Court with regard to the interim order granted by this Court on 19.04.2017, wherein it has been held as follows:-



"4. If any post is yet to be filled up and vacant, the same shall remain until further orders."

6. I have heard the submissions made on either side and perused the materials available on record.

7. From the application made by the petitioner for the post of 'Lab Assistant', it could be seen that due to typographical error while uploading the application, it was mentioned in the column, 'priority', as 'Not Applicable'. But, in the 'Age Concession' column, it has been mentioned as 'Ex-Serviceman'. For this typographical error, the petitioner's candidature cannot be thrown out in entirety, more particularly, the petitioner has rendered service nearly for 25 years in Army. Therefore, in the considered opinion of this Court, if there is any vacant post available, as on date, and not filled up pursuant to the interim order of this Court, the case of the petitioner shall be considered suitably and he can be accommodated against such vacancy of Lab Assistant, if there are no legal impediments.

8. With the above direction, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.

2.The Director of School Education,
O/o.the Director of School Education,
DPI Complex, College Road, Chennai - 600 006.

3.The Chief Educational Officer,
O/o.the Chief Educational Office,
Palakkarai, Trichy.

+1CC to M/s.Ajmal Associates in SR.No.85331.

+1CC to Special Government Pleader in SR.No.85190.

MPK

DS/RP/SAR-2 :27.09.2018: 3P/6C

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18.09.2018