



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2018

CORAM:

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.1011 of 2013

and

M.P.(MD) Nos.1, 2 and 3 of 2013

R.Veeran

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Fisheries Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Fisheries,
Administrative Office Building,
DMS Complex,
Thenampet,
Chennai - 600 006.

3.The Madurai District Collector,
Collectorate Buildings,
Madurai - 625 020.

4.The Deputy Director of Fisheries,
Ramnad Collectorate Buildings,
Ramnad.

5.The Assistant Director of Fisheries,
Petchiamman Padithurai (Inland Fisheries)
Madurai - 625 001.

6.The District Employment Officer,
K.Pudur, Madurai - 625 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 6th Respondent to sponsor the Petitioner's name to the post of Fisheries Assistant on considering the Petitioner's seniority in Registration on the file of the 6th Respondent and to direct the 4th Respondent to appoint the petitioner to the above said post pursuant to the petitioner's representation to the respondents dated 04.10.2012 and 08.10.2012 in the light of the order made by this Court in W.A.(MD). NO.352 of 2010 dated 05.08.2010.



For Petitioner : Mr.S.Alagarsamy
For Respondents : Mr.R.Sethuraman
Special Government Pleader

ORDER

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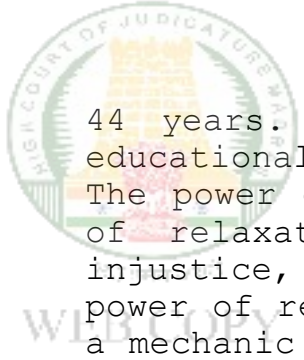
The relief sought for in this writ petition is for a direction to direct the 6th respondent to sponsor the name of the writ petitioner to the post of Fisheries Assistant on considering the employment seniority of the writ petitioner and to direct the 4th respondent to appoint the petitioner to the post of Fisheries Assistant.

2.The learned counsel for the writ petitioner vehemently contended that the writ petitioner is an expert in the field of fisheries and he has possessed all the requisite qualifications for appointment to the post of Fisheries Assistant in the Department of Fisheries and therefore, his case ought to have been considered by sponsoring his name for recruitment.

3.However, the learned counsel for the writ petitioner fairly admitted the fact that the name of the writ petitioner had not been sponsored, in view of the fact that he had crossed 35 years of age at the time of calling the list of names by the appointing authority. The Employment Officer, Madurai, also did not sponsor the name of the writ petitioner on account of the fact that the writ petitioner had crossed the age of 35 years, which was the upper age limit fixed for appointment to the post of Fisheries Assistant by way of direct recruitment.

4.The learned counsel for the writ petitioner states that the Hon'ble Division Bench of this Court has granted age relaxation in W.A.(MD) No.352 of 2010 dated 05.08.2010. This Court has carefully gone through the judgment rendered by the Hon'ble Division Bench of this Court. However, the facts are dissimilar. The Division Bench of this Court had considered the case, where the relaxation was granted by the Government itself due to the ban period imposed by the State between the years 2001 and 2006. Those circumstances cannot be compared with the facts and circumstance of the present writ petition. The relaxation of upper age limit was granted by the Government, in view of the fact that there was ban on public appointment. However, the said relaxation cannot be continued periodically so as to make applicable to all the eligible candidates, who all are participating in the subsequent selection process.

5.The rule relating to the recruitment has to be followed scrupulously by the competent authorities and there cannot be any dilution or violation. In the present case, the District Employment Officer had not sponsored the name of the writ petitioner on account of over age in the year 2013. Even, at the time of filing the writ petition, the writ petitioner was 39 years, now he would be around



44 years. This apart, the relaxation of age or relaxation of educational qualification cannot be granted in a routine manner. The power of relaxation has to be exercised judicially. The power of relaxation provided under the rules in order to mitigate injustice, if any cause to any employee. Thus, the exercise of power of relaxation may not be done sparingly and cannot be done in a mechanic manner. A rule of relaxation cannot be granted in order to favour a candidate or an employee.

6. Thus, this Court is of an opinion that the Courts cannot issued any direction for granting relaxation of rules. The power of relaxation is to be exercised in order to eradicate injustice, if any caused to an employee or a class of people. Under these circumstances, the arguments advanced by the learned counsel for the writ petitioner that rule relating to the age relaxation, cannot be considered at all. Further, the fact remains that even at the time of sponsoring the name of other candidates, the writ petitioner had crossed the age limit fixed for the purpose of recruitment to the post of Fisheries Assistant. Under these circumstances, this Court is not inclined to consider the case of the writ petitioner as he is not qualified and it is left open to the writ petitioner to participate in the open competitive process, if he is otherwise qualified in accordance with the rules in-force.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Fisheries Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Fisheries,
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DMS Complex,
Thenampet, Chennai - 600 006.
3. The Madurai District Collector,
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Madurai - 625 007.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.50208

W.P(MD)No.1011 of 2013
20.02.2018

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