



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.8241 of 2011

and

M.P(MD)No.2 of 2011

1.R.Muthuraja

2.A.Selvam

... Petitioners

Vs

1. The Government of Tamilnadu,
represented by the Secretary,
Higher Education Department,
St. George Fort,
Chennai-9.

2. The Secretary,
Department of Adi-Dravidar
and Tribal Welfare,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.

3. Madurai Kamaraj University,
represented by the Registrar,
Madurai - 625 021.

4. The Vice-Chancellor
Madurai Kamaraj University,
Madurai - 625 021.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to notify the backlog vacancies till 2011 of the Junior Assistant Posts and consider the appointment of the petitioners in the said vacancies with consequential benefits.

For Petitioners : Mr.T.Lajapathi Roy

For R-1 & R-2 : Mr.R.Sethuraman
Special Government Pleader

For R-3 & R-4 :Mr.Mahesh Kumaravel

**ORDER**

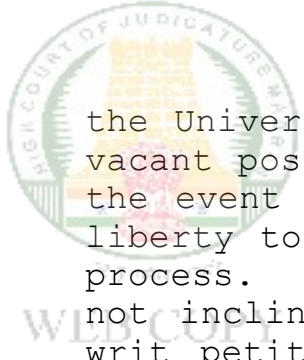
The relief sought for in this writ petition is for a direction to direct the respondent to notify the backlog vacancies till 2011 of Junior Assistant posts and consider appointment of the petitioners to the said vacancies.

2. Heard, Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner, Mr.R.Sethuraman, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.Mahesh Kumaravel, learned counsel appearing for the respondents 3 and 4.

3. Appointments can never be claimed as a matter of right. Appointments are to be made only by following the recruitment Rules in force. Equal opportunity in public employment is a constitutional mandate. All the eligible candidates are entitled to participate in the process of selection, if any notification is issued by the employer. However the writ petitioner cannot claim or seek any direction to the employer, to notify the vacancies for appointment for the post of Junior Assistant. Filling up of a post is a prerogative power vested on an employer. More so, filling up of a vacant post or issuing appointment order, is the policy decision of the employer. Merely because the posts are vacant and the backlog vacancies are available, the particular candidate cannot file a writ petition and seek direction to the respondent to fill up the post and appoint him to a particular post. The candidates who are aspiring to secure public employment cannot have legal right to seek a direction to fill up the posts which are all lying vacant.

4. So also, this Court is of the considered view that the recruitment process of a post and filling up of the same are all administrative functions of an employer. Public post are sanctioned for the proper administration and keeping the post vacant for a number of years without any valid reason is also not certainly preferable. However, in respect of the writ petitioner, he is at liberty to participate in the process of selection whenever the recruitment notification is issued. More so, the present writ petition cannot be treated as a Public Interest Litigation. It is a private litigation wherein the writ petitioner seeks appointment to the post of Junior Assistant. He has no right to seek any direction to fill up the backlog vacancies and / or the vacancies available in the respondent University.

5. The learned counsel appearing on behalf of the University made a submission that the notification was issued in the year 2011 and the backlog vacancies were filled up. The batch of Writ Petitions were filed and the same are pending. However, it is for



the University to issue fresh notification for recruitment to the vacant post in accordance with the Recruitment Rules in force. In the event of issuance of any notification, the petitioner is at liberty to submit his application to participate in the selection process. This being the principles to be followed, this Court is not inclined to grant any direction as such sought for in this writ petition, to issue notification, in respect of the backlog vacancies in the cadre of Junior Assistant. No further adjudication is required in this writ petition.

6. Accordingly, this writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamilnadu,
Higher Education Department,
St. George Fort,
Chennai-9.
2. The Secretary,
Department of Adi-Dravidar
and Tribal Welfare,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.

- + 1 cc TO Mr.R.M.Mahesh Kumaravel , Advocate in SR No. 45369
- + 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 45468
- + 1 cc TO The Special Government Pleader in SR No. 45512

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AE/KK/SAR3/28.02.2018/3P/6C

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