

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE N.BALAYOGI

Writ Petition No.19561 of 2017

ORDER: {Per Hon'ble Sri Justice Ramesh Ranganathan }

The relief sought for in this writ petition is for a mandamus to declare the action of the Principal District Judge, Chittoor District, in not considering the petitioner's case for appointment to the post of Special Judicial Magistrate of II Class in Chittoor District in the existing vacancies, pursuant to the notification dated 17.04.2017, as illegal and contrary to law.

The petitioner claims to have been appointed as a Special Judicial Magistrate of II Class, Madanapalli, vide G.O.Rt.No.1381 dated 16.12.2014, for a period of two years or till he attains the age of 65 years, whichever was earlier, with a consolidated honorarium of Rs.10,000/- per month. His services came to be terminated on his attaining the age of 65 years.

The petitioner now relies on a letter dated 23.04.2011 addressed by the Registrar (Vigilance), to all the Principal District and Sessions Judges in the State, that retired Judicial Officers, who have not crossed the age of 70 years as on 31.12.2010, and who were residing in the respective Districts, should be asked for their willingness to work in the Special Magistrate Courts. This letter dated 23.04.2011 forms the basis for the petitioner's claim that he should be continued as a Second Class Special Magistrate till he attained 70 years of age. The petitioner's appointment as a Special Judicial Magistrate of II Class vide G.O.Rt.No.1381 dated 16.12.2014, for a period of two years or till he attained the age of 65 years, is subsequent to the letter of the Registrar (Vigilance) dated 23.04.2011.

The Rules pertaining to the Qualifications for Appointment of Special Magistrates, notified in R.O.C.No.63/SO/74-2 dated 28.03.1974, stipulates that a person, to be considered for appointment as a II Class Special Magistrate, should not be more than 65 years of age. Despite the embargo in the said Rules, the petitioner claims that he should be considered in the light of the letter of the Registrar (Vigilance) dated 23.04.2011. It is only if the petitioner is able to show any statutory provision or rule, conferring on him such a right, can he then seek a mandamus for enforcement of such a right. No such mandamus can be sought or issued on the basis of a letter addressed by the Registrar (Vigilance) dated 23.04.2011. In any event, it is for the State Government, based on the recommendations of the High Court, to appoint persons, who fulfil the eligibility criteria and are found suitable for appointment to such posts, as II Class Magistrates. The petitioner claims to have submitted a representation that he be so appointed. While no mandamus can be issued that he be appointed as a II Class Magistrate, or for his application to be considered, we have no reason to doubt that, in case he is eligible and qualified to be considered for appointment, the respondents would examine his application, and take an appropriate decision, in accordance with law.

The Writ Petition is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, J)

(N.BALAYOGI, J)

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Date: 03.08.2018

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