

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:19.02.2018	Delivered on: 26.02.2019
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CORAM
THE HONOURABLE Mr.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

W.P.No.1239 of 2019
and
W.M.P.Nos.1390 and 1395 of 2019

K. Pazhaniselvan

... Petitioner

Vs.

1. The Principal District Court,
Principal District Court,
Madurai 625 020.
2. The Chief Post Master General,
Tamilnadu Circle,
Anna Salai, Chennai 600 002.
3. The Sub-Post Master,
Vepery Sorting Officer,
Speed Post Unit,
Perambur, Purasavakkam,
Chennai-600 007.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to accept the application of the petitioner dated 18.12.2018 in pursuance of the advertisement No.178/2018/A1, dated 06.12.2018 for the post of Office Assistant for not default on the petitioner and to consider the candidature of the petitioner on the basis of his qualification, eligibility and performance in the selection proceedings for appointment to the post of Office Assistant.

For Petitioner : Mr.P.V.Vinayakhamurthy

For Respondents : Mr.A. Durai Eswar for R1
Mr.J.Madanagopal Rao for R2 & R3
Senior Counsel for Central Government

O R D E R

P. RAJAMANICKAM., J.

This writ petition has been filed to issue a Writ of Mandamus or any other appropriate Writ or Order or direction in the nature of Writ directing the first respondent to accept the application of the petitioner dated 18.12.2018 in pursuance of advertisement No.178/2018/A1, dated 06.12.2018 for the Post of Office Assistant and to consider the candidature of the petitioner on the basis of qualification, eligibility and performance in the selection proceedings for appointment to the post of Office Assistant.

2. The first respondent made an advertisement vide Advertisement No.178/2018/A1 dated 06.12.2018 calling for the applications for the post of Computer Operator, Senior Bailiff, Driver, Xerox Machine Operator, Office Assistant, Night Watchman, Masalchi, Masalchi-cum-Night Watchman, Gardener, Sanitary Worker and Sweeper. In the said advertisement, the first respondent has stated that the applications for the aforesaid posts shall be sent by post to the Principal District Judge, Principal District Court, Madurai and the said applications shall be reached to the Principal District Judge, Madurai on or before 21.12.2018. The petitioner herein has applied for the post of Office Assistant and sent the application by speed post on 18.12.2018. The postman attempted to deliver the said speed post to the first respondent on 22.12.2018. The first respondent refused to receive the same and hence, it was returned on 24.12.2018. Feeling aggrieved, the petitioner has filed the present writ petition to direct the first respondent to accept the application of the petitioner dated 18.12.2018.

3. The first respondent has not filed any counter. The respondents 2 and 3 have filed counter affidavit. According to the respondents 2 and 3, the petitioner has booked a speed post article in consignment Number ET181495837IN at Vepery Post Office on 18.12.2018 and the same was despatched on the same day in the bag with Number EBT 0011182291 to National Sorting Hub, Chennai - 600016. It is their further case that due to heavy accumulation of bags and huge receipt of articles, the bag containing the said Speed Post Article was opened on 20.12.2018 and thereafter the said Speed Post Article was included in Speed bag with number EBT0011194864 for National Sorting Hub, Madurai on 21.12.2018 and the bag was despatched on the same day. It is their further case that the said Speed Post Article was received at National Sorting Hub, Madurai on 21.12.2018 and received at Gandhi Nagar MA S.O on 22.12.2018 and

sent out for delivery on the same day. It is their further case that the said article was attempted for delivery on 22.12.2018, but the addressee refused to receive the same and hence, it was returned to the petitioner and delivered to him on 24.12.2018 and hence, they prayed to dismiss the writ petition.

4. Heard Mr.P.V.Vinayakhamurthy, learned counsel for the petitioner and Mr.A.Durai Eswar for the first respondent and Mr.J.Madanagopal Rao, learned Senior Counsel for Central Government for the respondents 2 and 3.

5. The learned counsel for the petitioner has submitted that even though the petitioner has sent the application for the post of Office Assistant through speed post on 18.12.2018 at 10.59 a.m., at Vepery Post Office, the respondents 2 and 3 did not take any efforts to deliver the said speed post without delay. He further submitted that the respondents 2 and 3 took four days for delivering the Speed Post to the first respondent and since the said Speed Post not reached the first respondent within the stipulated time, the first respondent refused to receive the said Speed Post. He further submitted that the delay was caused purely due to the negligence on the part of the employees of the respondents 2 and 3 and there was no fault on the part of the petitioner and therefore, he prayed to direct the first respondent to receive the application of the petitioner dated 18.12.2018 for the post of Office Assistant.

6. The learned counsel for the first respondent has submitted that as per the advertisement made by the first respondent, the application should have reached the first respondent on or before 21.12.2018 whereas the petitioner's application has not reached the first respondent on or before 21.12.2018; on the contrary, the postman attempted to deliver the Speed Post, which was sent by the petitioner, to the first respondent's staff only on 22.12.2018 and hence the first respondent's staff has rightly refused to receive the same. He further submitted that if at all any delay is caused by the employees of respondents 2 and 3 in delivering the post, the petitioner has to work out his remedy only against the respondents 2 and 3 and he cannot seek any relief against the first respondent and therefore, he prayed to dismiss the writ petition.

7. The learned Senior Counsel for the Central Government appearing for the respondents 2 and 3 has submitted that the petitioner has booked a Speed Post Article at Vepery Post Office on 18.12.2018 and the same was despatched on the same day to the National Sorting Hub, Chennai. He further submitted that due to heavy accumulation of the bags and huge receipt of articles, the bag containing the said Speed Post

Article was opened only on 20.12.2018 and the same was included in the bag containing the Speed Post Articles which are to be sent to National Sorting Hub, Madurai and the said Speed Post reached the National Sorting Hub, Madurai on 21.12.2018 and it was sent to Gandhi Nagar MA SO on 22.12.2018. On the same day within departmental norms (D+1 to D+4 days) Speed Post Article was attempted for delivery on the fourth day excluding the day of booking, but the first respondent refused to receive the same and hence it was redirected to the petitioner and therefore, there was no delay in delivering the Speed Post and therefore, he prayed to dismiss the writ petition.

8. It is seen from the typed set of papers filed by the petitioner that the petitioner has sent an application for the post of Office Assistant on 18.12.2018. A perusal of the xerox copy of the postal receipt shows that the petitioner has sent the said application through Speed Post and the said Speed Post was booked at the Vepery Post Office on 18.12.2018 at 10.59 a.m., vide Consignment No.ET181495837IN. The track consignment of the postal department produced by the petitioner shows that the Speed Post Article was received by the National Sorting Hub, Chennai only on 21.12.2018. Therefore, the contention of the respondents 2 and 3 that the said Speed Post Article was sent to the National Sorting Hub, Chennai on 18.12.2018 itself but due to heavy accumulation of the bags and huge receipt of articles, the bag containing the said Speed Post Article was opened only on 20.12.2018 cannot be accepted.

9. There is no explanation from the respondent Nos.2 and 3 as to why the said Speed Post Article was not sent immediately to the National Sorting Hub, Chennai. They should have given priority to the Speed Posts. The very purpose of sending the Article through Speed Post is that the said Article should reach the addressee as early as possible. The explanation submitted by the respondents 2 and 3 appears to be very vague. They have not stated how many bags accumulated in the National Sorting Hub, Chennai between 18.12.2018 and 21.12.2018. Because of the negligent act of the employees of the respondents 2 and 3, the petitioner's application for the employment has not reached the first respondent/employer in time.

10. The learned Senior Counsel for Central Government has drawn the attention of this court to the Citizen's/Client's Charter issued by the Department of Posts and contended that for delivery of Speed Post Articles within the State, '1 to 4 days' has been fixed as norms whereas in this case, on the fourth day excluding the day of booking, the said Article was attempted to deliver, but the first respondent refused to receive the same.

11. A perusal of the said Citizen's/Client's Charter shows that the period mentioned therein does not refer to norms

fixed for delivery of Speed Post Articles. On the contrary, in the said Charter, only the service standards have been mentioned. Therefore, the contention of the learned Senior Counsel for the Central Government that four days has been fixed as norms for delivering of the Speed Post Article is not acceptable. As already pointed out that between 18.12.2018 and 20.12.2018, the respondents 2 and 3 have not at all taken any steps for sending the aforesaid Speed Post Article. They kept the said Article for more than two days in idle. This shows the negligence/carelessness/callousness in duty on the part of the employees of the respondents 2 and 3. The Postal Department being working under the control of Ministry of Communications and Information Technology of Government of India, the people will expect quality service from the said Department. We hope in future the Department of Posts will improve the quality of service and provide better service to the public or otherwise the people will loose faith on the Department of Posts and they will opt for the services of private sectors.

12. Since there was no fault on the part of the petitioner and that the delay was caused only due to the negligence of the employees of the respondents 2 and 3, it would not be proper to make the petitioner suffer and therefore, this court is inclined to allow this writ petition.

13. In the result, the writ petition is allowed. Consequently, the connected miscellaneous petitions are closed. No costs. The petitioner is directed to send the application dated 18.12.2018 to the first respondent either by Speed Post or by courier within one week from the date of receipt of a copy of this order. On receipt of the said application, the first respondent has to consider the candidature of the petitioner on the basis of his qualification, eligibility and performance in the selection proceedings for appointment to the post of Office Assistant.

-s/d-
सत्यमेव जयते

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

gv

To

1. The Principal District Court,
Principal District Court,
Madurai 625 020.

2. The Chief Post Master General,
Tamilnadu Circle,
Anna Salai, Chennai 600 002.

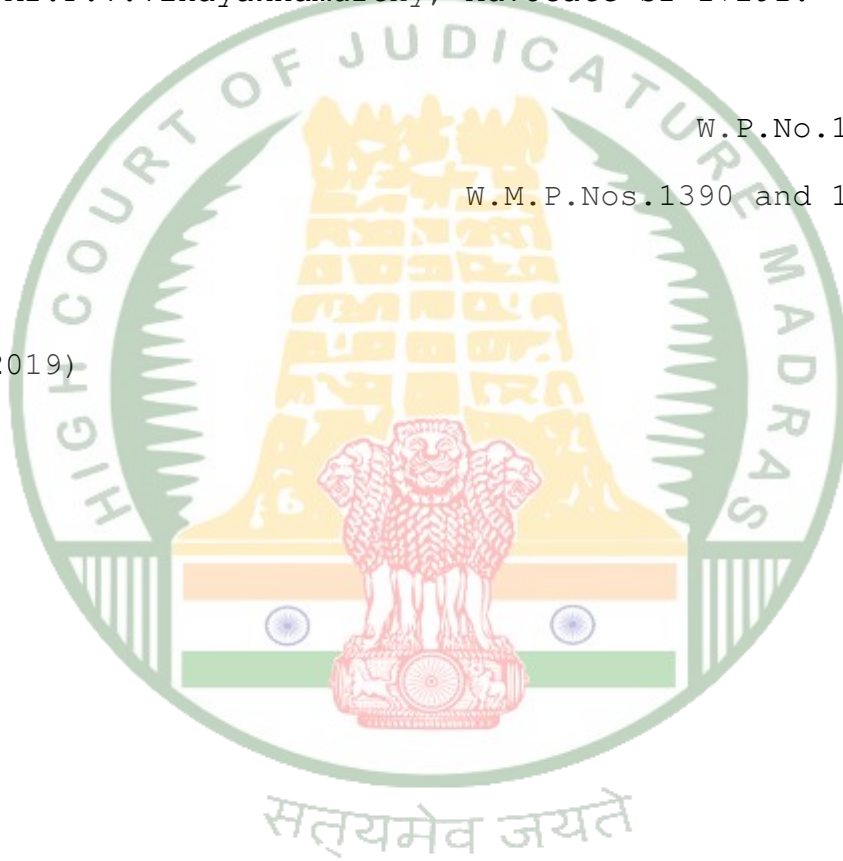
3. The Sub-Post Master,
Vepery Sorting Officer,
Speed Post Unit,
Perambur, Purasavakkam,
Chennai-600 007.

+1 CC to Mr.J.Madanagopal Rao, Advocate sr 17507.

+2 Ccs to Mr.P.V.Vinayakhamurthy, Advocate sr 17291.

W.P.No.1239 of 2019
and
W.M.P.Nos.1390 and 1395 of 2019

RK(CO)
SP(20/03/2019)



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