

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.11.2019
CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.33908 of 2013
and
M.P.Nos.2 & 3 of 2013

V.Raman

.. Petitioner

-vs-

1.The Government of Puducherry,
Rep., by its Secretary to Government (Labour),
Chief Secretariat, Puducherry.

2.The Managing Director,
Puducherry Road Transport Corporation Ltd.,
No.4, Iyyan Koil Street, Raja Nagar,
Puducherry.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent and quash the notification dated 31.07.2013, in so far as it relates to fixing the 'age limit', ignoring the petitioner's claim, who has already applied in the year 2007 and thereafter participated in the selection process in the year 2010, but the same was abruptly dropped and consequently direct the second respondent to consider the petitioner who having applied pursuant to the notification issued in the year 2013, appoint him in the post of conductor in the second respondent corporation, with effect from the date on which, other candidates selected pursuant to the 2013 notification are appointed, pay salary and all other service and other benefits from that date.

For Petitioner : Ms.D.Nagasaila
For Respondents : R1 - Mr.A.V.Ramalingam
Additional Govt. Pleader (Pondicherry)
: R2 - Mr.A.R.Nixon

ORDER

The notification dated 31.07.2013 is sought to be quashed in the present writ petition. Further direction is sought for directing the respondents to consider the case of the writ petitioner and appoint him to the post of Conductor in the second respondent transport corporation.

2. The facts in nutshell to be considered for deciding the above writ petition are that the petitioner had participated in the process of selection of Conductors in the year 2007 and the name of the writ petitioner was sponsored through District Employment Exchange. The writ petitioner participated in the process of interview and his certificates were also verified. Though the petitioner satisfied all the requirements for the said post, no further intimation was sent to him. When the petitioner was anxiously awaiting the appointment order, all of a sudden, the 2nd respondent once again called for applications for the very same post in the year 2009, wherein it was specifically mentioned that the previous selection process could not be completed and therefore, the persons who made applications in 2007 need not submit applications once again in 2009. Once again, the petitioner was called for certificate verification on 05.02.2010 and accordingly, he appeared in person and furnished all the required documents. The selection list was published by the respondents during the year 2010. However, the 2nd respondent did not issue any appointment order to the petitioner, though he was found to be fully eligible for the post of Conductor. While the matter stood thus, all of a sudden, the 2nd respondent issued yet another advertisement dated 31.07.2013 calling for applications for the very same posts. When the petitioner enquired with the 2nd respondent, he was informed that the 2010 selection list was cancelled by the Board of Directors of the respondent Corporation. Therefore, the present notification has been advertised in 2013. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the writ petitioner reiterated that the name of the writ petitioner was found in Sl.No.24 of the selection list dated 11.03.2010, and accordingly, the petitioner is entitled to be appointed as Conductor in the respondent Corporation.

4. The learned counsel appearing on behalf of the respondent Corporation made a submission that the selection for the year 2009 was cancelled by the Board of Directors of the 2nd respondent Corporation on account of various Writ Petitions filed challenging the selection and thereafter, a fresh recruitment notification was issued in the year 2013 by the Corporation for recruitment to the post of Conductors.

5. The learned counsel for the writ petitioner made a submission that the respondents have informed that the case of the writ petitioner would be considered whenever the vacancy arises. Therefore, all along the writ petitioner was awaiting for appointment, but now respondents are not considering the case of the writ petitioner for appointment.

6. The learned counsel for the writ petitioner stated that now vacancies are available, however, the said fact is disputed by the learned counsel appearing on behalf of the respondents by stating that no vacancy is available so as to consider the case of the writ petitioner for appointment.

7. Considering the facts and circumstances, the question to be resolved is as to whether a selection would confer any right on the selected person to seek appointment by filing a Writ Petition. This Court is of the considered opinion that mere selection would not confer any right on the person to claim appointment. In the present case, admittedly, the selection of the year 2010 was cancelled by the respondent corporation. Once the selection itself was cancelled, the selected candidates have no right to claim appointment. If any order of appointment had been issued, then only such a person would derive a right and not otherwise. In the present case, no such order of appointment was issued to the petitioner pursuant to the selection made. On the contrary, the selection itself was cancelled on account of various litigations alleging irregularities in the process of selection. This being the factum, the writ petitioner has not established any legal right so as to consider the relief sought for in the present writ petition.

8. The oral promise or information, if any, given by the respondents as contended by the writ petitioner would not constitute any legal right, nor this Court can consider such submissions. Once the process of selection is cancelled and actions were initiated for fresh recruitment by issuing notification in accordance with the recruitment rules in force, then the petitioner cannot claim that he should be appointed to the post on the basis of selection which was cancelled. All appointments are to be made strictly in accordance with the recruitment rules in force. The authorities competent will undertake the process of selection in such a way that all the eligible candidates are permitted to participate in the process and they are considered with reference to the recruitment rules in force. Thus, if the selection is cancelled, then the persons who were selected have no right to claim appointment or can seek a direction to issue appointment orders based on the selection which was cancelled. At the outset, the cancelled selection would not confer any right on the candidates to claim appointment.

9. These being the legal principles to be followed, the writ petitioner is not entitled for the relief as such sought for in the present Writ Petition. The selection of the year 2010 was cancelled and now after sever years the writ petitioner cannot seek any direction for appointment.

10. This being the factum, the writ petitioner has not established even as semblance of legal right so as to consider the relief as such sought for. Consequently, the writ petition is devoid of merits and stands dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

abr

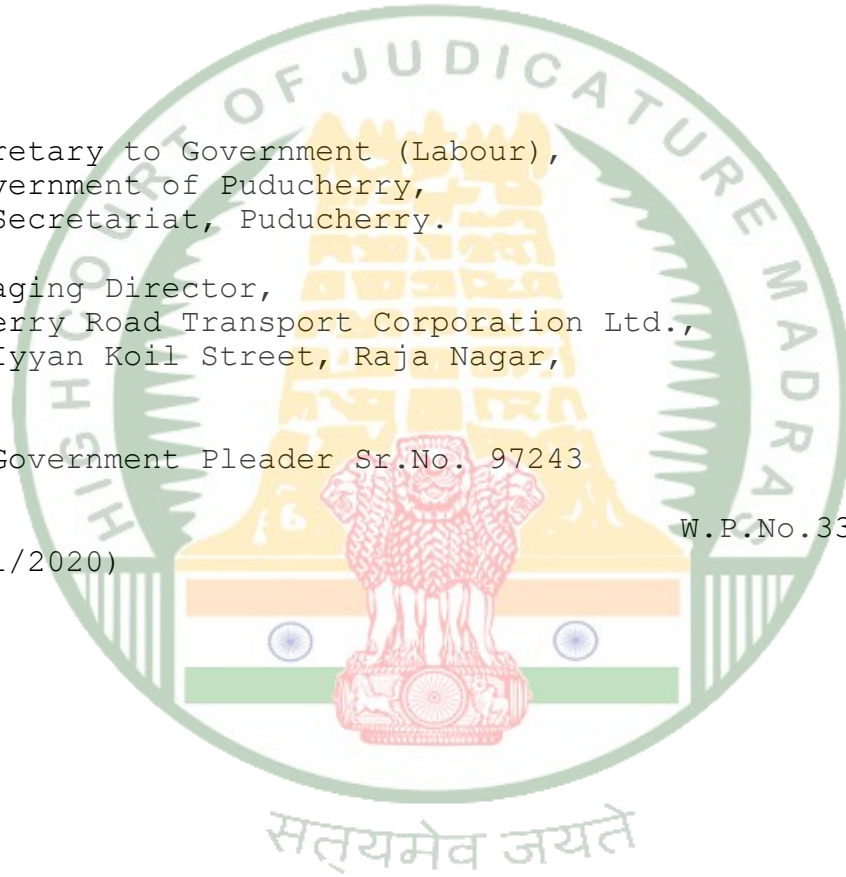
To

- 1.The Secretary to Government (Labour),
The Government of Puducherry,
Chief Secretariat, Puducherry.
- 2.The Managing Director,
Puducherry Road Transport Corporation Ltd.,
No.4, Iyyan Koil Street, Raja Nagar,
Puducherry.

+1 cc to Government Pleader Sr.No. 97243

W.P.No.33908 of 2013

A.SK(27/01/2020)



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