

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-04-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.484 of 2018

P.Balraj

.. Petitioner

vs

1.The Principal,
Government Polytechnic College,
Korukkai - 614 711,
Thiruthuraipoondi,
Tiruvarur District.

2.The Director,
Technical Education,
Guindy,
Chennai-600 025.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent dated 6.7.2017 and made in Letter No. 105/Nir 1/2017 and quash the order of the first respondent as illegal without jurisdiction and consequently, direct the first respondent to consider the petitioner for the appointment to the post of Skilled Assistant Mechanical Department in the first respondent-College by regularising temporary services of the petitioner.

For Petitioner : Mr.K.Sellathurai

For Respondents : Mr.V.Kadhirvelu,
Special Government Pleader.

O R D E R

The order of rejection dated 6.7.2017, rejecting the candidature of the writ petitioner to participate in the process of selection for appointment to the post of Skilled Assistant on the ground that the writ petitioner is over aged, is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that as per the Tamil Nadu Services Manual Volume III, which is the General Rule, the writ petitioner is entitled to avail the benefit of age relaxation and accordingly, the case of the writ petitioner is to be considered with reference to Rule 12(a) of the General Rules.

3. The learned Special Government Pleader, appearing on behalf of the respondents, states that the post of Skilled Assistant is governed under the Special Rule, which was issued in G.O.Ms.No.220.

4. As per the Special Rules, the age limit, fixed for OC candidates, is 30 years and for BC /MBC candidates is 32 years and for SC/ST candidates, the age limit is fixed as 35 years. In view of the fact that the writ petitioner has crossed the age limit of 35 years, the authorities had rejected the case of the writ petitioner. Thus, there is no infirmity in respect of the rejection order passed by the respondents, as the same was issued in consonance with the Special Rules framed under the Tamil Nadu State and Subordinate Services for the post of Skilled Assistant. In this regard, the relevant paragraphs 9 and 10 in the counter-affidavit filed by the first respondent are extracted hereunder:-

"9. I further submit that after verified the petitioner documents we are rejected bearing Letter No.105/Nir/2017 dated 6.7.2017 due to his aged more than 36 years. The petitioner failed to see we issuing notification age limit as per Special Rule vide G.O.Ms.No.220. That G.O stated clearly mentioned the age limit. The petitioner not comes under priority age limit.

10. I further submit that first respondent sent letter to the District Employment Office at Thiruvarur regarding to fill up the vacancies for the post of ITI Trade bearing Letter No.105/A3/2017 dated 16.5.2017 the age limit criteria is 38 the petitioner has already clarify the age criteria for the particular post in Employment Department. The list of categories as follows for OC age limit 30, BC/ MBC age limit is 32 and SC/ST age limit is 35 based on G.O.Ms.No.220 the above mention category petitioner falls under SC Caste the age limit mention for SC is 35 but the petitioner age is 38 years then how come the petitioner have a right to claim over on the particular

issue, he is nowhere eligible for particular Skilled Assistant Post."

5. Whenever, the Special Rules are in force, the writ petitioner cannot rely upon the General Rule. The legal principles in this regard is that if a particular post is governed by the Special Rules, such Special Rules alone will prevail over and by relying on the General Rule, no age relaxation can be granted.

6. The fact that the writ petitioner is serving as daily wage employee for a considerable length of time, would not confer any right on him to claim permanent absorption or regularisation, which is otherwise to be granted strictly in accordance with the Recruitment Rules in force.

7. This being the principles to be followed, the writ petitioner has not established any acceptable ground and the order impugned is in conformity with the Special Rules governing the post of Skilled Assistant.

8. Accordingly, the writ petition is devoid of merits and the same stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

Svn
To

1.The Principal,
Government Polytechnic College,
Korukkai - 614 711,
Thiruthuraipoondi,
Tiruvarur District.

2.The Director,
Technical Education,
Guindy,
Chennai-600 025.

+1cc to Government Pleader SR.No.38165

W.P.No.484 of 2018

SSV(CO)
GMY(06/06/2019)