

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 13.11.2019
CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.Nos.25996 to 26012 of 2016
and
WMP.Nos.22242 to 22295 of 2016

1. R. Suriyaprakash ..Petitioner in W.P.No.25996 of 2016
2. S. Sidarane ..Petitioner in W.P.No.25997 of 2016
3. V. Dharmalingam ..Petitioner in W.P.No.25998 of 2016
4. G. Sakthivel ..Petitioner in W.P.No.25999 of 2016
5. S. Kathiresan ..Petitioner in W.P.No.26000 of 2016
6. A. Kunasegaran ..Petitioner in W.P.No.2001 of 2016
7. A. Pazanival ..Petitioner in W.P.No.26002 of 2016
8. D. Kumaraguru ..Petitioner in W.P.No.26003 of 2016
9. N. Selvaraj ..Petitioner in W.P.No.26004 of 2016
10. J. Krishnaswamy ..Petitioner in W.P.No.26005 of 2016
11. B. Nagarajan ..Petitioner in W.P.No.26006 of 2016
12. G. Sivagurunathan ..Petitioner in W.P.No.26007 of 2016
13. Ananth. L. ..Petitioner in W.P.No.26008 of 2016
14. D. Subramanian ..Petitioner in W.P.No.26009 of 2016
15. V. Senthil Kumaran ..Petitioner in W.P.No.26010 of 2016
16. S. Manimaran ..Petitioner in W.P.No.26011 of 2016
17. P. Vellaiappan ..Petitioner in W.P.No.26012 of 2016

vs

1. The Government of Puducherry,
Represented 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 in all WPs.

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue appropriate writs, orders or directions and in particular a writ in the nature of certiorarified mandamus after calling for the records from the 2nd respondent relating to the proceedings of the 2nd respondent dated 31.07.2013 bearing reference No.NIL, read with proceedings dated 06.04.2016, 06.04.2016, 12.03.2016, 12.03.2016, 12.03.2016, 06.04.2016, 14.03.2016, 06.04.2016, 06.04.2016, 12.03.2016, 14.03.2016, 06.04.2016, 06.04.2016, 06.04.2016, 06.04.2016 and 06.04.2016 respectively bearing reference No.68/PRTC/Legal/15-16, Puducherry and quash the same as illegal, arbitrary, discriminatory, violative of Article 14 & 19 of the Constitution of India and consequently direct the respondents to consider and appoint the petitioner in the post of driver in the 2nd respondent Corporation by giving necessary age relaxation and pass orders.

For Petitioners : Mr. R. Dasaratha Rao

For Respondents : Mr. A.V. Ramalingam, AGP for R1
Mr. A.R. Nixon for R2

O R D E R

The order of rejection passed by the second respondent in proceedings dated 14.03.2016, 06.04.2016 and 12.03.2016 respectively is under challenge in the above Writ Petitions. Further direction is sought for directing the respondents to consider the case of the writ petitioners and appoint them to the post of driver in the second respondent transport corporation.

2. The facts in nutshell to be considered for deciding the above Writ Petitions are that the petitioners had participated in the process of selection of drivers in the year 2005 and the name of the writ petitioners were sponsored through District Employment Exchange. The writ petitioners participated in the process of interview and their certificates were also verified. The select list was published by the respondents during the year 2010. The writ petitioner's names were found in the select list and accordingly the learned counsel for the writ petitioners reiterated that the petitioners are entitled to be appointed as drivers in the respondent corporation.

3. The learned counsel appearing on behalf of the respondent corporation made a submission that the selection for the year 2010 was cancelled by corporation on account of various Writ Petitions filed challenging the selection and thereafter a fresh recruitment notification was issued by the Corporation for recruitment to the post of drivers.

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

5. The learned counsel for the writ petitioners 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 petitioners for appointment.

6. 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 canceled by the respondent corporation. Once the selection itself was canceled, the selected candidates have no right to claim appointment. If any order of appointment had been issued, then such a person would derive a right and not otherwise. In the present case, no such order of appointment was issued to the petitioners pursuant to the selection made. On the contrary, the selection itself was canceled on account of various litigations alleging irregularities in the process of selection. This being the factum, the writ petitioners have not established any legal right so as to consider the relief sought for in the present writ petitions.

7. The oral promise or information if any given by the respondents as contended by the writ petitioners 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 petitioners cannot claim on the basis of that selection which was cancelled that they should be appointed to the post. All appointments are to be made strictly in accordance with the recruitment rules in force when equal opportunity has in public employment is the constitutional mandate. 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 person who were selected has no right to claim appointment or can seek a direction to issue appointment orders based on the selection which was cancelled.

8. At the outset the cancelled selection would not confer any right on the candidates to claim appointment.

9. This being the legal principles to be followed, the writ petitioner are 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 petitioners cannot seek any direction for appointment.

10. This being the factum the writ petitioners have not established even as semblance of legal right so as to consider the relief as such sought for consequently, the writ petitions are devoid of merits and stand dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy//

Sub Assistant Registrar

mrn

To

1. The Government of Puducherry,
Represented 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.

+17cc to Mr.R.Dasaratha Rao, Advocate, SR.Nos.94986, 94987 to
94993, 94994 to 95002.

+1cc to Mr.A.R.Nixon, Advocate, SR.No.95011.

+1cc to Additional Government Pleader(Pondy) SR.No.94763.

W.P.Nos.25996 to 26012 of 2016
and

WMP.Nos.22242 to 22295 of 2016

SSL (CO)

CSR: 31.01.2020