

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T. ASHA

W.A.No.1477 OF 2019

Dr. (Lt.) K.Rajakumar

... appellant

Vs

1.The Government of Tamil Nadu,
rep. By its Secretary,
School Education Department,
Fort St.George, Chennai 600 009

2.The Director of Public Libraries,
737/1 Anna Salai,
Chennai 600 002

... respondents

Appeal filed against the order passed by this Court dated 14.02.2019 in WP No.9840 of 2018.

WP.Prayer in WP.No. 9840 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, Calling for the records relating to the impugned advertisement published on 01/01/2018 in the daily newspaper 'Thinathanthi', by me 2nd respondent for filing up the post of Director of Public Librarian through direct the recruitment and quash the same and consequently, direct the respondents to forthwith appoint the petitioner as Director of Public Libraries.

For appellant : Mr.K.Raja

For Respondents : Mr.C.Munusamy, Spl.G.P.

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The appellant after undergoing the selection process for appointment to the post of Director of Public Libraries,

challenged the very notification calling for applications for appointment to the said post on the ground that the Selection Committee was not justified in conducting the interview. The Writ Petition was dismissed by the learned Single Judge. Feeling aggrieved, the unsuccessful Writ Petitioner has come up with this intra court appeal.

2. We have heard the learned counsel for the appellant. We have also heard the learned Special Government Pleader on behalf of the first respondent.

3. The appellant is presently working as Librarian (Selection Grade) at Dr.Ambedkar Government Arts College, Vyasarpadi, Chennai. The post of Librarian (Selection Grade) would come under the Tamil Nadu Collegiate Educational Service Rules.

4. The Government of Tamil Nadu framed rules for appointment to the post of Director, Public Libraries, Madras. Rules were published in G.O.Ms.No.223, Education Department, dated 9 February 1974, as per which, appointment shall be made by promotion from the post of Joint Registrar of Public Libraries or by transfer from Class I in the said service or by recruitment by transfer from any other service.

5. The Government of Tamil Nadu made amendments to the rule by issuing an order in G.O.Ms.No.102 School Education dated 1 July 2013. As per the amended rule, the appointment would be by promotion from the post of Joint Director of Public Libraries or Class 1 or recruitment by transfer from any other service or by direct recruitment, if no qualified candidate is available for appointment.

6. The School Education Department initiated proceedings for filling up the post of Director of Public Libraries. The name of the appellant was forwarded to the appointing authority through his employer. The appellant was directed to appear for the interview on 14 July 2017. The appellant was the only candidate. The appellant subjected himself to the process of interview. The Selection Committee found that the performance of the appellant was below average. He was therefore not selected. The appellant immediately thereafter filed a Writ Petition on the ground that the Selection Committee was not correct in conducting the interview. According to the appellant, since there was only one candidate who was eligible for appointment by transfer, he should have been selected without there being any interview. The said contention was negatived by the learned Single Judge.

7. The core question is whether the respondents were correct in conducting the interview for appointment to the post.

8. The appellant has taken up a contention that even as per the amended rule, it was only for the direct recruitment, interview is contemplated. There is absolutely no merit in the said contention. The employer should be in a position to assess the merits of the candidates. Merely because the appellant is the only candidate, it cannot be said that he should be appointed straightway. There should be a mechanism to assess his eligibility, performance and capability to perform the duties of Director of Public Libraries. It was only to assess the eligibility to hold such a high office, the Selection Committee conducted the interview.

9. The Selection Committee was headed by the Principal Secretary to Government, Education Department. The committee comprising the Secretary to Government, Education Department, Secretary to Government, Personnel and Administrative Reforms Department, Secretary to Government, Finance (Expenditure) Department, Secretary to Government (in-charge) Law Department, Director, Anna University Library, interviewed the appellant and assessed his performance. The appellant was found unfit for appointment to the post of Director of Public Libraries. It was only thereafter, the appellant challenged the procedure adopted by the Selection Committee for appointment. There is no need for incorporating the mode of selection process in the ad hoc rules. It would suffice in case the mode of appointment is indicated. Even though it is a recruitment by transfer, still, the Selection Committee is entitled to assess the performance of the candidates. The fact that there was only one candidate would not give a right to the said candidate to claim appointment without subjecting himself to any kind of selection process. We are therefore of the view that there is absolutely no merit in the contentions taken by the learned counsel for the appellant.

10. We are informed by the learned Special Government Pleader that steps taken so far for appointment to the post of Director of Public Libraries was stalled by the appellant by filing Writ Petitions, one after another. The post is even now lying vacant. The Director, Education Department is looking after the office of the Director of Public Libraries. According to the learned Special Government Pleader, post of the Director of Public Libraries should be filled up early in the interest of public. We are also informed that the authorities have already commenced the selection process. We direct the concerned authorities to complete the process of selection to the post of Director of Public Libraries as expeditiously as possible and in any case, on or before 30 August 2019.

11. The intra court appeal is dismissed. No costs. Consequently, connected C.M.P.No.10085 of 2019 is also dismissed.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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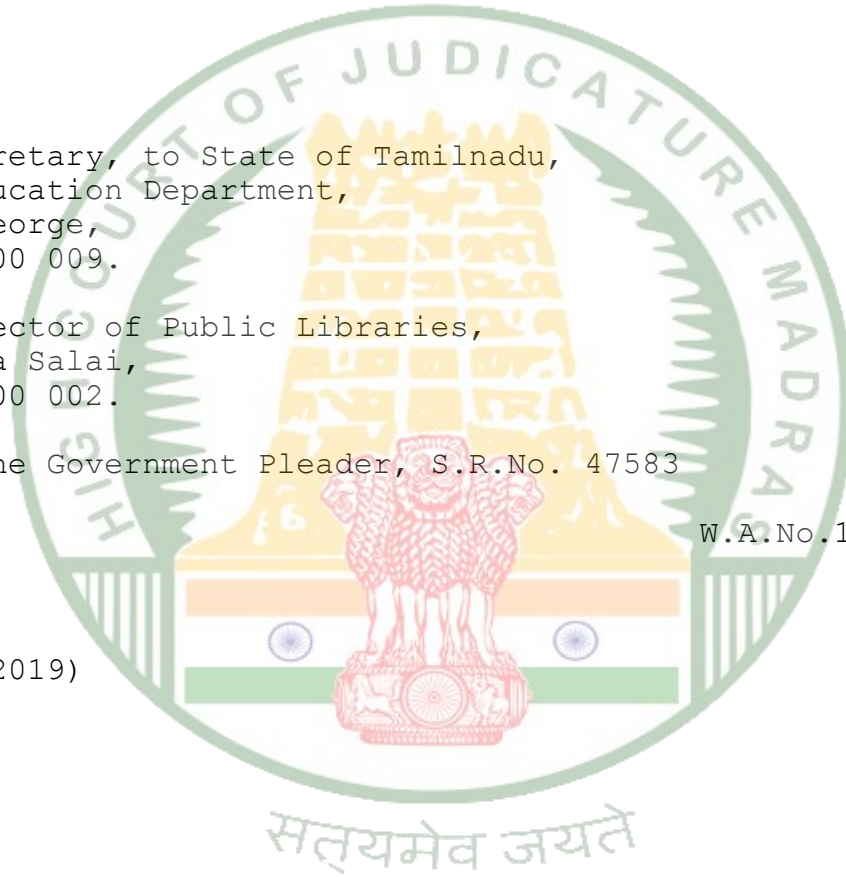
1.The Secretary, to State of Tamilnadu,
School Education Department,
Fort St.George,
Chennai 600 009.

2.The Director of Public Libraries,
737/1 Anna Salai,
Chennai 600 002.

+1cc to the Government Pleader, S.R.No. 47583

W.A.No.1477 OF 2019

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