

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.11.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.21498 of 2019

P.Chandru

..Petitioner

vs

1. The Director
Tamilnadu Milk Production and Development
Madhavaram,
Chennai-51.
 2. The General Manager
X-37, Kanchipuram, Thiruvallur District
Co-operative Milk Producer's Union Ltd.,
No.55, Guruvappa Street, Ayanavaram,
Chennai-23.
 3. The Chairman
X-37, Kanchipuram, Thiruvallur District
Co-operative Milk Producer's Union Ltd.,
No.55, Guruvappa Street, Ayanavaram,
Chennai-23.
And also at SIDCO Industrial Estate,
Kakkalur, Tiruvallur District
- ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the claim of the petitioner under the SC priority category for selection as Senior Factory Inspector and further direct the respondents 2 & 3 to select and appoint the petitioner as Senior Factory Inspector.

For Petitioner : Mr. S.Sivakumar
For Respondents : Mr.L.P.Shanmugasundaram
(Co-op.)

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner under the SC priority category for selection as Senior Factory Inspector and further direct the respondents 2 & 3 to select and appoint the petitioner as Senior Factory Inspector.

2. The petitioner belongs to Schedule Caste Community and physically challenged person having 70% disability. The 2nd

respondent has issued a notification on 12.10.2017 calling for application from the eligible candidates for filling up 24 posts on various categories, namely 1) Senior Factory Assistant-19, 2) Manager-1, 3) Junior Executive (Office)-1, 4) Technician (Electrician)-1, 5) Technician (Refrigeration)-1, 6) Technician (Lab)-1. Further the petitioner is fully qualified to apply for the post of Senior Factory Inspector under SC category and he submitted his application and the same was admitted and assigned with Registration/Roll No.5005. However, the petitioner's name was not considered on the ground that he has not enclosed the disability certificate along with the application. Hence, the petitioner sent a representation dated Nil to the respondents, but the same was not considered till date. As against the inaction on the part of the respondents, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that the petitioner's application was not considered since he has not produced the disability certificate. Though the petitioner has not produced the disability certificate, he is physically handicapped and he is entitled to priority quota and therefore, he prays to consider the claim of the petitioner under the SC priority category for selection.

4. Per contra, the respondents have filed a counter affidavit on behalf of the respondents in which paragraphs 6, 7, 10 and 11 are extracted hereunder:

6. I submit that the petitioner herein had submitted his application for the post of Senior Factory Assistant Enclosing photo copies of certificates required for consideration of his application. In the said application, several details had been called for including the column for filling up, as to whether he prefers priority treatment as a differently abled person or not. The petitioner herein had specifically filled up the column stating "No" besides no disability certificate was enclosed along with the application form.

7. I submit that based on written examination and the marks secured in the interview, the highest mark holders, based on communal rotations were appointed which includes the categories of schedule castes both in Priority as well as in Non-Priority category. The mark secured in the General category non priority by the petitioner was also considered and the petitioner could not be considered either in the General Turn category or in the Scheduled Castes category. The petitioner became ineligible, as the marks secured were not sufficient to consider him in the above category.

10. I submit that in that context, the petitioner submitted the disability certificate belatedly and having obtained the same only on 28.05.2018, long after the submission of application and that too filling up the application as "No" in the column of "Are you a differently abled person" could not be considered in view of his express rejection.

11. I submit that the 2nd Respondent was rightly constrained to submit a letter to the Director of Milk Production and Dairy Development requesting guidance on filling up of General Turn Priority category based on the recommendation of the committee and the order/guidance is awaited. Further, the 1st Respondent is the Functional Registrar and the 2nd respondent Union is administratively and statutorily subject to the control of the First Respondent.

5. Considering the facts and circumstances of the case and a detailed counter affidavit submitted by the respondents, it reveals that the petitioner made an application on 19.10.2017 and he attended the interview on 08.06.2018. The respondents have also produced the online application submitted by the petitioner before this Court. Though the petitioner has not produced the disability certificate, there was a separate column for priority quota namely column No.21 and 22 in which the petitioner marked the column "No" and he has not claimed differently abled quota and priority quota and in the absence of any application, the relief sought for by the petitioner cannot be granted.

6. In the result, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

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To

1. The Director
Tamilnadu Milk Production and Development
Madhavaram,
Chennai-51.

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2. The General Manager
X-37, Kanchipuram, Thiruvallur District
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3. The Chairman
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Co-operative Milk Producer's Union Ltd.,
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Chennai-23.
And also at SIDCO Industrial Estate,
Kakkalur, Tiruvallur District.

+1cc to Mr.S.Sivakumar, Advocate, SR.No.99486.
+1cc to Mr.L.P.Shanmugasundaram, Advocate, SR.No.99908.
+1cc to Government Pleader, SR.No.99925.

W.P.No.21498 of 2019

RSV(CO)
CSR:27/11/2019



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