

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33836 of 2017
and
W.M.P.No.37507 of 2017

K.Ramesh

...Petitioner

Vs.

1. The District Collector,
O/o. The District Collectorate
Sathuvachari,
Vellore District.
2. The Sub Collector,
O/o. The Sub Collector Office,
Thirupathur Taluk,
Vellore District.
3. The Tahsildar,
O/o. Tahsildar Office,
Thirupathur Taluk,
Vellore District.
4. M.Thiagarajan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus to call for the records of the impugned order passed by the 3rd respondent vide Mu.Mu.A1/7890/2017 dated 28.11.2017 and quash the same and to direct the 3rd respondent to reject the appointment order of the 4th respondent and to appoint the petitioner in the post of Periagaram Village Assistant, at Periagaram Village, Thirupathur Taluk, Vellore District.

For Petitioner : Mrs. Amalraj
for Mr.C.S.Vijayakumar

For Respondent : Mr.I.Sathish
Additional Government Pleader
R1 to R3

Mr.R.Prabudoss for R4

O R D E R

The petitioner is aggrieved against the proceedings dated 28.11.2017 issued by the third respondent in appointing the fourth respondent to the post of Periagaram Village Assistant. Consequently, the petitioner seeks for appointing him to the said post.

2. The case of the petitioner is as follows:

He studied upto 8th Standard. He belongs to Scheduled Caste. He registered his name in the Employment Exchange. A paper publication was made calling for application for the post of Periagaram Village Assistant, Thirupathur Taluk. The petitioner applied to the said post. The required qualification for the said post is that the applicant has to reside in the same village and also should have passed 5th Standard. The petitioner was called for interview. He along with some other persons appeared for interview on 14.09.2017. The petitioner submitted all his certificates in the interview. The petitioner is aged about 38 years. However, the fourth respondent was selected and appointed to the said post only on the reason that he was holding a driving license as an additional qualification. When the qualification prescribed for the said post does not stipulate the possession of driving license, the authorities should not have taken into consideration of possessing the driving license as an additional qualification to appoint the fourth respondent. Hence, the present writ petition is filed.

3. A counter affidavit is filed by the third respondent wherein, it is stated as follows:

The petitioner and the fourth respondent are residing in the same Periagaram Village and both of them were sponsored by the Employment Exchange. The petitioner is aged about 38 years and the fourth respondent is aged about 33 years. The fourth respondent possessed the driving license, which was considered as an additional qualification and also considering the character and antecedents as he was serving as a night watchman on contract basis for more than one year, he was considered for the said post.

4. The learned counsel for the petitioner reiterated the contentions raised in this writ petition and submitted that the rejection of the petitioner and appointment of the fourth respondent on an extraneous reason cannot be justified. He further contended that since the petitioner is aged about 38 years, he should have been considered to the said post instead of the fourth respondent, who is only 33 years old. He further contended that the petitioner is not interested in disturbing

the fourth respondent's appointment, if he is considered to the said post in any other place where there is vacancy. The learned counsel also submitted that there are 11 vacancies for the post of Village Assistant in Thiruppathur Taluk, Vellore District are as follows:

"The following 11 vacancies for the post of Village Assistants in Thiruppathur Taluk, Vellore District are presently available.

1. Thiruppathur Town
2. Korati Village
3. Koodapattu Village
4. Kathirmangalam Village
5. Palnangkuppam Village
6. Udaiyamuthur Village
7. Thokkiam Village
8. Nariyaneri Village
9. Mandalavadi Village
10. Thakaravadi Village
11. Kakkangkarai Village."

5. The learned Additional Government Pleader for the respondents 1 to 3, on the other hand, contended that the fourth respondent was selected and appointed only because he was possessing an additional qualification of having driving license.

6. Heard both sides.

7. It is seen that the petitioner and the fourth respondent are having all the requisite qualifications to the post of Village Assistant as stipulated in the notification. However, the fourth respondent was selected only because he was possessing a driving license. It is seen that the following are the requisite qualification for considering to the post of Village Assistant:

"i) The native place of the applicant should be within the distance of 3 km from the vacant village notified

ii) The applicant should have passed 8th Std and those failed in 10th Std,

iii) The age of applicant should be 22 years and above and to 30 years and below

iv) The applicant should know cycle riding.

v) The applicant should know swimming

vi) The applicants who applies to Mandalanayanunda Village should belong to Backward class Women.

vii) The applicants who applies to

Periyagram Village should belong to General Category.

viii) The applicants should send their applications in a white paper with the details of name, address, community, nativity, religion and date of birth with passport size photograph on or before 5.30 pm on 31.08.2017."

8. Perusal of the above said requirements would show that there is no scope for considering the possession of driving license as an additional qualification for appointment to the post of Village Assistant other than the qualifications required supra. At the same time, it is not in dispute that the fourth respondent is possessing all those qualifications. Equally, the petitioner is also possessing all the qualifications as admitted in the counter affidavit. When such being the factual position, I am of the view that the reason stated by the respondents 1 to 3 in selecting the fourth respondent in preference to the petitioner cannot be sustained legally, more particularly, by considering the age of the petitioner being elder to the fourth respondent. However, as the fourth respondent is also possessing the requisite qualification and got appointed already and as the petitioner is not so interested in disturbing the fourth respondent, provided he is also considered to the said post in a place, where there is a vacancy and considering that the petitioner states that there are 11 vacancies for the post of Village Assistant in Thiruppathur Taluk, Vellore District, this Court is of the view that the respondents 1 to 3 shall consider the request of the petitioner for appointing him in any one of the place, where there is a vacancy for the post of Village Assistant, without disturbing the fourth respondent.

9. Accordingly, this writ petition is disposed of by granting liberty to the petitioner to make a request/representation before the respondents 1 to 3 within a period of two weeks from the date of receipt of a copy of this order. On receipt of such request/representation, the same shall be considered and appropriate orders shall be passed in the light of the observations and findings discussed supra, without disturbing the fourth respondent. The said order shall be passed by the respondents 1 to 3 within a period of six weeks from the date of receipt of such application. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

sni/mk

Sub Assistant Registrar

To

1. District Collector,
O/o. The District Collectorate
Sathuvachari, Vellore District.
2. The Sub Collector,
O/o. The Sub Collector Office,
Thirupathur Taluk, Vellore District.
3. The Tahsildar,
O/o. Tahsildar Office,
Thirupathur Taluk,
Vellore District.

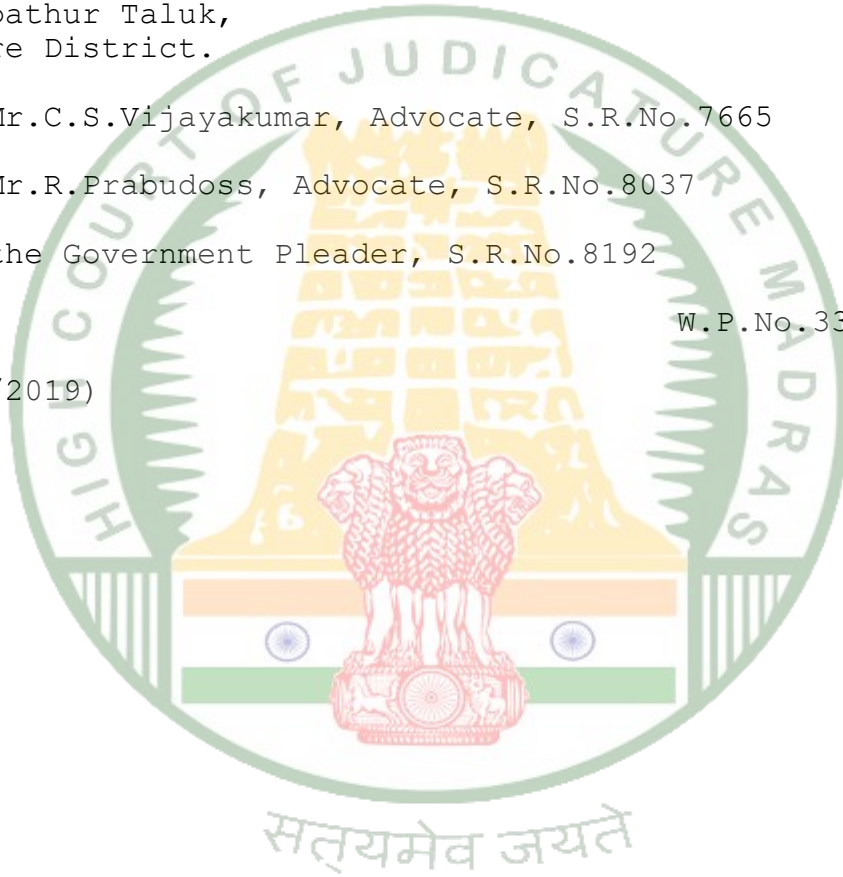
+1 cc to Mr.C.S.Vijayakumar, Advocate, S.R.No.7665

+1 cc to Mr.R.Prabudoss, Advocate, S.R.No.8037

+1 cc to the Government Pleader, S.R.No.8192

W.P.No.33836 of 2017

RV(CO)
SSM(26/02/2019)



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