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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P No.33318 of 2019

W.M.P Nos.33773 & 33734 of 2019

K.Senthil Kumar

..Petitioner

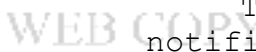
vs.

1. The Director Rural Development and
Panchayat Raj Department,
Panagal Building,
Abdul Razzak Street,
Saidapet, Chennai - 15.
2. The District Collector,
Collectorate,
Salem, Salem District.
3. The Project Officer,
(Rural Development Department)
Collectorate,
Salem, Salem District.
4. The Special Officer/Block Development
Officer (Village Panchayat)
Kadayampatti Taluk,
Salem District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the 4th respondent issued in Na.Ka.No.898/2018/T3 dated 11.11.2019 and quash the same with the consequential direction, directing the respondents to consider the name of the petitioner for appointment to post of Village Panchayat Secretary in pursuance of the earlier notification of the 4th respondent dated 26.03.2018 for the same vacancy under Ex-Service man quota.

For Petitioner	: Mr.V.Ravikumar
For Respondents	: Mr.A.Zakir Hussain
	Government Advocate for R1 to R3
	Ms.M.Lalitha for R4



5. Per contra, the learned counsel appearing on behalf of the respondents submitted that there were totally 15 applications received during the year 2018 for the purpose of filling up the post of Village Panchayat Secretary and none of the 15 persons were found to be qualified. Therefore, the 4th respondent has proceeded to issue a fresh notification calling for applications for selection to the post of Village Panchayat Secretary. The learned counsel placed reliance upon G.O.Ms.No.72 dated 09.07.2013 and brought to the notice of this Court Rule 5 in the



Government Order which prescribed for the qualifications, and the same is extracted hereunder:

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5. Qualifications:- (1) Age- No person shall be eligible for appointment to the post if he/she has not completed 18 years and if he/she has completed or will complete 30 years of age on the first day of July of the year in which the selection for appointment to the post is made. In respect of candidates belonging to Backward Class/Most Backward Class/Scheduled Caste/Scheduled Tribe, the upper age limit shall be 35 years.

6. The learned counsel, by bringing to the notice of this Court the qualification prescribed in the Government Order, submitted that the petitioner was aged about 42 years at the time of applying for the post of Village Panchayat Secretary and since he was over aged, as the maximum age that was prescribed was only 35 years, the petitioner was not considered for selection to the post of Village Panchayat Secretary. The learned counsel submitted that since no one was found to be qualified in the previous notification, a fresh notification has been issued by the 4th respondent and the same does not call for any interference by this Court.

7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. It is seen from records that the petitioner had joined the Indian Army as a Soldier in the year 1996 and he served for nearly 16 years and he was discharged from the Army in the year 2012 due to the injuries sustained by him. The 4th respondent had issued notification dated 26.03.2018 calling for applications to fill up the post of Village Panchayat Secretary. It is clear from the notification that it was called for Karuvalli Panchayat and it was specifically stated that it was the turn of Ex-Servicemen who will be considered for selection. The petitioner who is an Ex-Servicemen had applied and he was also called for an interview. Thereafter, the appointment did not go through and a fresh notification has been issued by the 4th respondent.

9. The only ground that has been put against the petitioner is that he was aged about 42 years at the time of making the application and that the maximum age that was prescribed in G.O. Ms. No. 72 dated 09.07.2013 is only 35 years and therefore the petitioner is over aged. The relevant Rule has also been extracted supra.



10. It is seen from the Rule that insofar a candidate belonging to the General category, the maximum age that is prescribed is 30 years and in respect of Backward Class/Most Backward Class/Scheduled Caste/Scheduled Tribe, the upper age limit is fixed as 35 years. It is seen that no age limit has been prescribed insofar as Ex-Servicemen are concerned. Even in the notification, age limit has been prescribed insofar as all the others are concerned, except the Ex-Servicemen. The notification does not prescribe any upper age limit insofar as Ex-Servicemen are concerned.

11. It will also be relevant to take note of G.O.Ms.No.988, Personnel and Administrative Reforms (PER-R) Department, dated 22.09.1981, passed by the Government of Tamil Nadu which deals with the employment opportunity to be provided to Ex-Servicemen. In Paragraph No.6 of the Government Order, it has been specifically stated that the Ex-Servicemen can be appointed up to age of 48 years insofar as General category is concerned and up to age of 53 years insofar as other categories are concerned. This Government Order has a lot of significance in the present case.

12. It defines logic to accept an Ex-Serviceman to seek for employment at the age of 30 or 35 years, as the case may be. An Ex-Servicemen is one who had rendered his Military Service and thereafter had been discharged from service. A special treatment is given for Ex-Servicemen since they had sacrificed their life for this nation and that is the object behind G.O.Ms.No.988, dated 22.09.1981, which seeks to give an opportunity to the Ex-Servicemen in public employment. The upper age limit that has been shown to this Court by relying upon G.O.Ms.No.72, dated 09.07.2013, will not apply to Ex-Servicemen. Therefore, the 4th respondent went wrong in rejecting the application made by the petitioner only on the ground that he crossed the age barrier.

13. It is clear from the information that has been provided by the respondents that only the petitioner had participated in the selection in the category of Ex-Servicemen, for the post of Village Panchayat Secretary at Karuvalli Panchayat. Therefore, the 4th respondent has to necessarily process the application and go ahead with the selection, if the petitioner satisfies all the other requirements.

14. In the result, the notification issued by the 4th respondent in Na.Ka.No.898/2018/T3, dated 11.11.2019 is hereby set aside and the 4th respondent is directed to consider the name of the petitioner for the appointment to the post of



Village Panchayat Secretary, if the petitioner has satisfied all the other requirements. This process shall be completed within a period of six weeks from the date of receipt of copy of this order.

15. This writ petition stands allowed with the above directions. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Director Rural Development and
Panchayat Raj Department,
Panagal Building,
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Officer (Village Panchayat)
Kadayampatti Taluk,
Salem District.

+1 cc to M/s.V.Ravikumar, Advocate Sr.No. 101843
+1 cc to The Government Pleader, Sr.No. 107519

AKM/21.01.2020/5P-7C /

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