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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.06.2019

CORAM

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

W.A.No.2272 of 2018

M. Senthil Kumar ..Appellant

-Vs-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai- 600 009.

2. Director of Public Health and
Preventive Medicin,
Teynampet,
Chennai- 600 006.

3. Deputy Director,
Health Services, Salem,
Salem -636 001.

.. Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent praying to set aside the order in W.P.No.5858 of 2016, on the file of this Court, dated 26.04.2018.

W.P.No.5858 of 2016:- Writ Petition praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent impugned notification dated 22.1.2016 and quash the same consequently directing the 3rd respondent to issue a fresh notification in accordance with the order of this Honourable court dated 2.8.2012 in W.P.No.26162 of 2010 confirmed in W.A.No.1027 of 2013 dated 9.6.2014 and G.O.Ms.No.44 dated 11.3.2015 and proceed with the selection as per law.

For Appellant : Mr. V.Raghavachari

For Respondents : Mrs. A. Srijayanthi, Spl.G.P.

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JUDGMENT

(Judgment of the Court was delivered by P.T.ASHA, J)

This intra court Appeal arises against the dismissal of the writ petition filed by the appellant herein, challenging the notification issued by the 3rd respondent calling for the post of drivers notifying the cut off date for the age limit as on 01.01.2016 and for the BC category the upper age limit was fixed at 32. The 3rd respondent issued the fresh notification keeping in view the orders of this Court in W.P.No.26162 of 2010 confirmed in W.A.No.1027 of 2013 and GO.Ms.No.44 dated 11.03.2015.

2. The facts in brief are as follows:
The appellant was fully qualified for the appointment to the post of driver. Though he had registered in the District Employment Exchange, his name was not sponsored by the employment exchange, the appellant had directly applied for the said post. Since he did not receive any call letter from the 3rd respondent, the appellant made enquiries. On making enquiries, the appellant came to learn about the notification dated 22.01.2016. The appellant would contend that the first respondent had not prescribed the age relaxation in the notification in keeping with the Government Order in G.O.Ms.No.21/Labour and Employment Department dated 02.02.2000. The appellant's grievance was that if the age relaxation was indicated in the notification in terms of G.O.Ms.21 dated 02.02.2000, he would have been eligible and his application would not hav been rejected.

3. The respondents would contend that since the name of the appellant had not been sponsored by the district employment exchange, he was not permitted to participate in the selection. That apart, the selection process has been stalled by reason of stay order from this Court. Therefore the respondent was constrained to issue a publication afresh.

4. The Learned Single Judge dismissed the writ petition with an observation that the competent authority should advertise the vacancy by giving wide publicity and proceed with the selection process and had directed the respondents to permit all the eligible candidate to participate in the process of selection. Challenging this order, the Writ Appeal has been filed.

5. Heard Mr. V.Raghavachari, learned counsel for the appellant and Mrs.A.Sirjayanthi, Special Government Pleader for the respondents.

6. Taking into consideration the fact that the appellant has

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all along been working with the 3rd respondent, though not in a permanent post, we deem it fit to direct the respondent to consider his candidature if he applies in response to the fresh notification. It is further made clear that the respondents shall issue a notification giving wide publicity inviting applications from various candidates by advertisement in vernacular newspapers as well as through District Employment Exchange. The respondent shall consider the appellant's application, if he is otherwise qualified, by giving him due relaxation in age. With the above directions, the writ appeal is disposed of. No costs.

mrn

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai- 600 009.

2.The Director of Public Health and
Preventive Medicine,
Teynampet,
Chennai- 600 006.

3.The Deputy Director,
Health Services, Salem,
Salem -636 001.

+1cc to Mr.V.Raghavachari, Advocate, SR.No.49811
+1cc to the Govt.Pleader, Vide Sr.No.50121

W.A.No.2272 of 2018

Kak(02/08/2019)

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