



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.20054 of 2015

and

M.P(MD)Nos.1 & 2 of 2015

M.Krishnan

... Petitioner

Vs

1. The Assistant Director (Town Panchayat),
Madurai Division,
Madurai District.

2. The Executive Officer,
Alanganallur Town Panchayat,
Vadipatti Taluk, Madurai District.

3.M.Senthil Kumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the Impugned Order in Na.Ka.No.37/2015 dated 26.10.2015 on the file of the second respondent and quash the same and further directing the first and second respondents to appoint the petitioner to the post of Motor Operator in Alanganallur Town Panchayat on Priority basis.

For Petitioner	:Mr.R.Maheeswaran
For R1 & R2	:Mr.K.Mu.Muthu, Additional Government Pleader
For R3	: No appearance

ORDER

The order of appointment appointing the third respondent as Motor Operator in Alanganallur Town Panchayat in proceedings dated 26.10.2015, is under challenge in the present writ petition.

2.The learned counsel appearing for the petitioner states that the writ petitioner joined in the Indian Army and discharged from duty. Thus, he is entitled to avail the quota prescribed for Ex-servicemen for appointment in the post of Motor Operator. The petitioner participated in the process of selection for



appointment to the post of Motor Operator pursuant to the notification, dated 11.09.2015. Both the names of the writ petitioner as well as the third respondent were shortlisted by the authorities competent and the third respondent was appointed without considering the name of the writ petitioner, inspite of the fact that the writ petitioner is entitled for appointment under the Priority category.

3.The learned counsel appearing for the petitioner forcibly contended that the priority provided to the Ex-serviceman cannot be taken away by the authorities by granting appointment to the third respondent. Thus, the entire process of selection was in violation of the Government Order in force and accordingly, the appointment of the third respondent is to be cancelled.

4.The learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 made a submission that admittedly, the process of selection was conducted and both the writ petitioner as well as the third respondent participated in the process of selection. The competent authorities considered all the criteria as well as the merits of the candidates and appointed the third respondent by considering the fact that the third respondent is a candidate of Deaf and Dumb and most deserving candidates. By assessing the merits and other criteria, the case of the third respondent was considered by the authorities. Thus, there is no infirmity in respect of the appointment made in favour of the third respondent.

5.This Court is of the considered opinion that the third respondent is continuing in the post of Motor Operator for the past about 5 years. This apart, the third respondent admittedly is a candidate with disability of Deaf and Dumb. The writ petitioner is an Ex-serviceman. Though the writ petitioner is falling under the priority category, he would be receiving decent amount of Military pension and he is entitled to avail all other benefits being provided by the Defence Department. Thus, in all respects, the writ petitioner is in advantageous position than that of the third respondent, who is admittedly a candidate with disability of Deaf and Dumb. In the event of dislocating the third respondent at this length of time, the same will affect the very livelihood of the third respondent. Contrarily, the said situation may not arise as far as the writ petitioner is concerned.

6. Thus, this Court is inclined to apply the principles of equity and confirmed the appointment of the third respondent, considering the facts and circumstances. This being the factum, the relief as such sought for by the writ petitioner deserves no



7. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Assistant Director (Town Panchayat),
Madurai Division,
Madurai District.

2. The Executive Officer,
Alanganallur Town Panchayat,
Vadipatti Taluk, Madurai District.

+ 1 CC TO Mr.R.Maheswaran, ADVOCATE IN SR No.70277

+ 1 CC to The Special Government Pleader SR.No.70679

W.P(MD)No.20054 of 2015

20.06.2019

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