



WEB COPY

WA(MD)NO.870 OF 2019
and
C.M.P(MD)No.7703 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)NO.870 OF 2019
and
C.M.P(MD)No.7703 of 2019
in W.P(MD)No.14044 of 2015

S.Dhanabalan

:Appellant/Petitioner

.vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Commissioner,
Mudhukulathur Panchayat Union,
Mudhukulathur,
Ramanathapuram District.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.14044 of 2015, dated 11.07.2019.

Prayer in WP(MD) . 14044/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the 3rd respondent in Na.Ka.No.87/2016/F1 dated 31.05.2019 and quash the same and consequently direct the 1st respondent to issue patta in favour of the petitioners name for occupied house site situated in Ward -19, Viswanathapuram Ward-A, Block NO.14 near to the Government Kallar Girls Hostel, Chinnamanoor Municipality, Theni District

For Appellant

:Mr.M.Siddharthan

For Respondents

:Mr.VR.Shanmuganathan
Special Govt.Pleader



JUDGMENT

[Judgment of the Court was made by **K. RAVICHANDRABAABU, J.**]

WEB COPY This Writ Appeal is directed against the order passed by the Writ Court, in dismissing the Writ Petition filed by the appellant herein.

2.The Writ Petition was filed challenging the order of the second respondent, dated 12.6.2015 and the subsequent notification, dated 21.7.2015, inviting applications for appointment to the post of Night Watchman.

3.Heard the learned counsel for the appellant and the learned Special Government Pleader appearing for the respondents and perused the materials placed before us.

4.It is seen that the Petitioner/appellant was temporarily appointed as Night Watchman, that too, for a period of 12 days, by an order, dated 10.2.2015. Thereafter, the impugned notification was issued on 21.7.2015, calling for application from the eligible persons for appointment to the post of Night Watchman. The said notification prescribes the educational qualification as 7th standard pass and also the upper age limit as 32 years for Backward Class and Most Backward Class communities. The Petitioner belongs to Backward Class Community. Admittedly, as on the date of notification, the Petitioner has crossed the upper age limit and he was 40 years as on the date of the said notification. Therefore, he cannot be considered for the selection to the said post. Challenging the said notification and also the order passed by the second respondent to consider his request for age relaxation, the Writ Petition was filed.

5.The Writ Court, after considering all the facts and circumstances and also the material fact that the Petitioner is over aged by the time of issuance of the said notification, rightly rejected the request of the Petitioner. We find no reason to interfere with the said order.

6.Though the learned counsel for the appellant sought to rely on a proviso made to Special Rules for Tamil Nadu Basic Service, to contend as though the Petitioner having been appointed in the contingent establishment, is entitled to seek for age relaxation, we are not convinced to accept the said contention on the reason that the very initial appointment of the Petitioner was made on 10.2.2015, that too, for a short period of 12 days and that within a period of five months, regular notification was issued inviting applications to the post of Night Watchman. Therefore, the Petitioner is not entitled to take advantage of such temporary



appointment to take shelter under the provisions of Rule 5 of the above said Rules. Thus, we find no ground to entertain the Writ Appeal.

7. Accordingly, the Writ Appeal fails and the same stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Commissioner,
Mudhukulathur Panchayat Union,
Mudhukulathur,
Ramanathapuram District.

+1 CC to M/s.P. KALAIYARASI BARATHI, Advocate SR-83518[.
+1 CC to SPL GP SR-83585.

JUDGMENT MADE IN
W.A (MD) NO. 870 OF 2019
and
C.M.P (MD) No. 7703 of 2019
26.08.2019

CS(10.09.2019) 3P 5C