



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
24.10.2019	07.11.2019

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CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) No.1285 of 2018

and

C.M.P. (MD) No.9003 of 2018

L.Saravanaraj ... Appellant/Petitioners

-vs-

1.The Director of Adi Dravidar Welfare
O/o.The Directorate of Adi Dravidar Welfare
Chepauk, Chennai-5

2.The District Collector
Tirunelveli District
Tirunelveli

3.The District Adi Dravidar Welfare Officer
Tirunelveli District, Tirunelveli

4.Sudalaimani ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 31.08.2017, passed in W.P.(MD) No.19511 of 2016, on the file of this Court.

Prayer in WP(MD). 19511/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF DECLARATION declaring all the appointments made by the 3rd respondent in the post of cook in pursuant to the news item published on 31.12.2015 as null and void and consequently direct the respondents 1 to 3 to make fresh recruitment in accordance with law and thereby consider the petitioners case for the above said post based on his representation dated 24.03.2016.

For Appellant : Mr.G.Thalaimutharasu

For Respondents : Mr.A.K.Baskarapandian
Special Government Pleader for R1 to R3
Mr.S.Xavier Rajini for R4



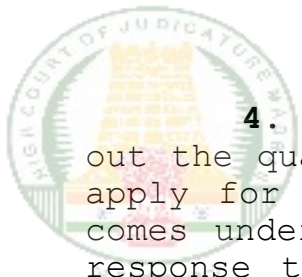
J U D G M E N T

T.S.SIVAGNANAM, J.,

This writ appeal by the writ petitioner is directed against the order, dated 31.08.2017, passed in W.P.(MD) No.19511 of 2016.

2. The appellant filed the writ petition to declare all the appointments made by the third respondent in the post of Cook, pursuant to the notification published on 31.12.2015, as being null and void and consequently, to direct the respondents 1 to 3 to make fresh recruitment in accordance with law and consider his case for the said post, based on his representation, dated 24.03.2016.

3. The appellant's case is that he had passed tenth standard and enrolled himself in the District Employment Exchange and was fully eligible to be appointed as Cook in the respondent Department or in any other equivalent post. Pursuant to the notification issued by the second respondent, dated 31.12.2015, the appellant applied for the post of Cook under the category reserved for scheduled caste. As per the said notification, the total number of vacancies in Tirunelveli District was 37, of which 24 were allotted for male candidates and 13 were allotted for female candidates. Interview was held on 12.01.2016 in terms of the notification. It is further stated that the appellant, along with all his credentials, went to the office of the third respondent to attend interview, but, he was orally informed that the interview was adjourned, without specifying any date and that he will be informed by post about the fresh date of interview. According to the petitioner, he *bona fide* believed such information and was eagerly waiting for fresh intimation to be received notifying the date of interview. It is stated by the appellant that to his shock and surprise, the third respondent filled up the post in an arbitrary manner misusing the official power without informing the adjourned date of interview. Therefore, the appellant submitted a representation, on 24.03.2016, to the respondents 2 and 3 stating that he was not informed about the adjourned date of the interview. It is submitted that the appellant, through his counsel, sought for information under the Right to Information Act regarding the date of interview and a reply was received stating that the interview was held on 12.02.2016 and was communicated to the eligible persons. Immediately thereafter, a representation in the form of appeal was submitted to the first respondent on 02.06.2016, but, however no effective reply was received by the appellant. The appellant further stated that he is not aware of the details of the selected candidates, except for one, who has been impleaded as the fourth respondent in the writ petition. Thus, the appellant sought to declare the entire selection process as null and void.

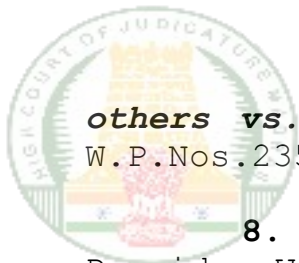


4. The third respondent filed a counter affidavit setting out the qualification required to be possessed by the candidates to apply for the post of Cook in Adi Dravidar Welfare Hostel, which comes under the "Basic Servant" category. It is submitted that in response to the notification, 1239 applications were received, in which, the appellant was also one among the applicants. After scrutiny of all the applications, 600 applications were found to be eligible for being considered and the applications, which did not fulfil the qualifications, were not taken up for consideration for sending interview call letter. It is submitted that due to administrative reasons, the interview scheduled on 12.01.2016 was postponed and the candidates were informed by notice affixed in the notice board in the office of the third respondent that they will be intimated about the fresh date of interview. It is further submitted that interview was fixed on 12.02.2016 and intimation was sent to all 600 eligible applicants and interview was conducted on 12.02.2016 and 37 vacancies were filled up with suitable candidates. It is further submitted that the appellant does not fulfil the qualification prescribed for the post, more particularly, the educational qualification, which specifically states that the candidate should not have passed tenth standard and the highest educational qualification is SSLC fail. Thus, according to the third respondent, the appellant is over-qualified for the said post and therefore, he was not found eligible and consequently, interview call letter was not sent to him. Therefore, the third respondent would submit that there is no error committed by the Department and much prior to the filing of the writ petition, all 37 vacancies have been filled up by eligible candidates.

5. The learned Writ Court, by the impugned order dated 31.08.2017, rejected the stand taken by the appellant and dismissed the writ petition. Challenging the same, the present writ appeal has been filed.

6. We have heard Mr.G.Thalaimutharasu, learned counsel appearing for the appellant, Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.S.Xavier Rajini, learned counsel appearing for the fourth respondent.

7. The learned counsel appearing for the appellant would submit that the third respondent committed an error in fixing a maximum qualification that is required to be possessed by the candidate for being considered for appointment to the post of Cook in Adi Dravidar Welfare Hostels. It is submitted that the third respondent can fix the minimum educational qualification, but cannot state that the appellant is not qualified because he has passed tenth standard. In support of his contentions, the learned counsel placed reliance upon the decision in the case of **Indira Gandhi and**



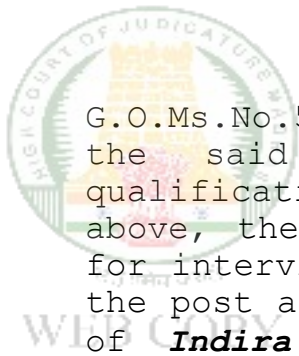
others vs. The District Collector, Cuddalore District and others,
W.P.Nos.23539 to 23541 & 26336 to 26341 of 2010, dated 08.09.2011.

8. The notification for selection to the post of Cook in Adi Dravidar Welfare Hostels was notified on 31.12.2015. The said post falls under the category "Basic Servant" and the qualification prescribed for the post as notified is that the applicant should know to read and write in Tamil language and should not have passed tenth standard (highest educational qualification is SSLC fail). The other qualifications are age limit, which is 35 years as on 01.07.2015; the applicant should be a resident of Tirunelveli District; the applicant should have previous experience in cooking, both vegetarian and non-vegetarian food; the applicant should be SC/ST/SCA and no civil / criminal case should be pending against the applicant.

9. Admittedly, the appellant was aware of the qualification and applied for the post. Even on the said date, the appellant when he applied, he was informed that the educational qualification is tenth standard fail. If the appellant was aggrieved at that juncture, he should have challenged the notification insofar as it prescribes such educational qualification. However, the appellant did not so, but submitted his application for being considered for appointment to the said post. Totally, 1239 applications have been received and 600 candidates were found to be eligible. The appellant's application was found to be ineligible, because he was over-qualified in terms of the qualification prescribed in the notification. In such circumstances, there is no duty cast upon the recruiting agency to send interview call letter nor there is any condition that the candidates, whose applications are found to be not eligible, should be intimated in writing. In such circumstances, the procedure adopted by the third respondent for filling up of the vacancies pursuant to the interview conducted on 12.02.2016, namely, the adjourned date cannot be faulted.

10. From the counter affidavit filed by the third respondent in the writ petition, it is seen that all 37 vacancies have been filled up on 12.02.2016 much prior to the filing of the writ petition, which was filed on 04.10.2016.

11. The decision in the case of **Indira Gandhi** (supra) is distinguishable on facts, because in the said case, the petitioner appeared for interview for the post of Village Assistant and out of 108 candidates, for whom call letters were sent, only 69 of them, including the petitioner therein, were appeared for interview and out of 69 candidates, 8 candidates were selected and 17 vacancies remained unfilled. This was admitted by the respondents in the said writ petition in their counter affidavit. In such a factual scenario, the Court interpreted Rule 6 of the Special Rules for Tamil Nadu Village Assistants Service notified by the Government in



G.O.Ms.No.521, Revenue Department, dated 17.06.1998 and held that the said Rule nowhere prescribes any minimum educational qualification. Therefore, a direction was issued. As noticed by us above, the appellant was found to be ineligible even to be called for interview as he did not possess the qualification prescribed for the post as notified on 31.12.2015. Thus, the decision in the case of **Indira Gandhi** (supra) cannot be applied to the facts and circumstances of the case on hand.

12. For all the above reasons, the appellant has not made out any case for interference with the order passed in the writ petition.

13. In the result, the writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar (CS)

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To:

1.The Director of Adi Dravidar Welfare,
O/o.The Directorate of Adi Dravidar Welfare,
Chepauk, Chennai-5.

2.The District Collector,
Tirunelveli District, Tirunelveli.

3.The District Adi Dravidar Welfare Officer,
Tirunelveli District, Tirunelveli.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-96858[F] dated 08/11/2019)

W.A. (MD) No.1285 of 2018

and

C.M.P. (MD) No.9003 of 2018

07.11.2019

KK/SAR/18.11.2019/5P-5C/