

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2020

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.12790 of 2020 and

W.M.P.No.15802 of 2020

S.Karunanidhi

... Petitioner

Vs

1.The Director of Town Panchayat, Respondents
Kuralagam,
Chennai 600 108.

2.The District Collector,
O/o.the District Collector,
Chengalpattu District,
Chengalpattu.

3.The Assistant Director of Town Panchayat,
Kanchipuram Zone,
Chengalpattu District.

4.The Executive Officer,
Special Grade Town Panchayat Office,
Thirukkazhukundram,
Chengalpattu District.

petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the third and fourth respondents to fill two vacancies to the post of Sweeper in the fourth respondent Panchayat office as per Notification Na.Ka.No.1542/2019/Peru.2 dated 05.11.2019, issued by the third respondent within a time frame fixed by this Court.

For Petitioner : Ms.S.Kanmani

For Respondents : Mr.V.Kathirvelu, SGP for R1 to R3
: Mr.R.A.S.Senthilvel, AGP for R4

ORDER

This writ petition has been filed to direct the third and fourth respondents to fill two vacancies to the post of Sweeper in the fourth respondent Panchayat office as per Notification Na.Ka.No.1542/2019/Peru.2 dated 05.11.2019, issued by the third respondent, within a time frame fixed by this Court.

2. The case of the petitioner is that he was appointed as Driver in 2009, in the fourth respondent office and has been working till recently on contract basis. According to him, he belongs to Scheduled Caste Community. The third respondent issued a notification for filling two vacancies in the Sweeper post, one earmarked for Scheduled Caste candidate and the other for general turn. In response to the notification issued in November 2019, the petitioner applied and he was called for an interview and he attended the interview on 10.02.2020 and produced all the required documents. Later on, the petitioner came to know that the respondents were attempting to fill one post without following the rule of reservation.

3. According to the petitioner, earlier, in the notification, it was mentioned that one post of Sweeper was reserved for Scheduled Caste community. Therefore, it is not open to the respondents to fill up the vacancy with any other candidate, other than the candidate from Scheduled Caste category. In the said circumstances, the petitioner is before this Court by way of this writ petition.

4. Notice was ordered. In response to the notice, Mr.R.A.S.Senthilvel, learned Additional Government Pleader entered appearance on behalf of the fourth respondent. A detailed counter affidavit has been filed. In the counter affidavit, in paragraph No.10, it is stated that inadvertently, when the notification was issued, out of the two vacancies, one was notified as post earmarked for Scheduled Caste candidate. But actually, the said post was reserved for SCA Widow (P)-1 and the another post was to be filled up by the general turn and subsequently, it was clarified.

5. According to the counter affidavit, since the vacancy for which, the claim was made by the petitioner, has been earmarked for SCA Widow (P)-1 and he could not be considered against the said vacancy. However, he was considered for general turn vacancy. Due to Covid-19 situation, no final order has been passed as on date. According to the counter affidavit, as on date, no candidate has been appointed either in general turn vacancy or against the other vacancy reserved for SCA Widow (P)-1. In the said circumstances, the learned Additional Government

Pleader appearing for the fourth respondent would submit that the question of considering the petitioner's prayer as on date, does not arise at all.

6. At this, the learned counsel for the petitioner would submit that the petitioner may be atleast continued as Driver on contract basis as before.

7. The learned Additional Government Pleader appearing for the fourth respondent would submit that the post of Driver has been outsourced. Unless the outsourcing agency engages him, the petitioner cannot be employed any more.

8. In view of the above narrative, this Court is of the view that the writ petition need not be kept pending before this Court as the prayer cannot be granted at all. Moreover, it is apparent that no final decision has been taken in regard to the subject appointment. In any event, the vacancy against which the claim is made by the petitioner, is not available for SC candidate as disclosed in the counter affidavit.

9. For the above said reasons, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar

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To

1.The Director of Town Panchayat,
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Chennai 600 108.

2.The District Collector,
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+1 C.C. to The Government Pleader SR.NO.36930

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UM (CO)
UM (15.12.2020)



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