

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.30695 of 2017 and

W.M.P.No.33604 of 2017

R.Senthik Murugan

... Petitioner

Vs.

1. Government of Tamilnadu,
rep. by its Secretary,
School Education Department,
Govt. of Tamil Nadu, Fort St. George,
Chennai.
2. Government of Tamilnadu,
rep. by its Secretary,
Labour and employment Department,
Govt. of Tamil Nadu, Fort St. George,
Chennai.
3. Assistant Director,
Thiruvallur Zilla Sainik Board,
Ex-Servicemen's Welfare,
No.6/25, Lal Bahadur Shastri road,
Periyakuppam, Tiruvallur.
4. The Director,
Director of School Education, DPI compound,
College Road, Nungambakkam,
Chennai 600 005.
5. Chief Educational Officer,
Master Plan Complex, Near RTO Office,
Tiruthani Road, Tiruvallur 602 001.
6. K.Venkatesan, Lab Assistant,
Government Higher Secondary School,
Kathivakkam 600 057.
7. S.Narasiman, Lab Assistant,
Corporation High School,
Athipattu 631 210.

8. T.Kumar, Lab Assistant,
Government Higher Secondary School,
Pandeshwaram.

9. V.Swamikannu, Lab Assistant,
Government Higher Secondary School,
Pallavedu 600 055.

... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus or any other Writ or order or direction, calling for records pertaining to the recruitment process for the post of Lab Assistant under notification of the 5th respondent to award 10 marks for the petitioner as weightage for registering with the Ex-servicemen Welfare Board for more than 10 years and to appoint the petitioner as Lab Assistant under notification Na.Ka.No.2748/A1/2015 dated 22.04.2015 with effect from 18.04.2017 with all the Seniority, back wages and benefits under the positions reserved for Ex-Servicemen Backward Caste, which is presently lying vacant on the account of no takers.

For Petitioner : Mr.S.Manohar

For Respondent : Mrs.P.Kavitha, Gov. Pleader
(for R1, R4, and R5)

Mr.S.thangavel, Spl. Gov. Pleader
for R2

O R D E R

This petition has been filed to appoint the petitioner as Lab Assistant with effect from 18.04.2017 with all the Seniority, back wages and benefits, under the positions reserved for Ex-Servicemen Backward Caste, which is presently lying vacant on the account of no takers, after giving 10 marks weightage for having registration in the Ex-servicemen Welfare Board for more than 10 years.

2. The case of the writ petitioner in nutshell is as follows.

The petitioner is a retired Ex-service man, who put 15 years of service in the Indian Army. The 5th respondent has called for recruitment to fill up the post of Lab Assistant, vide notification dated 22.04.2015 and the petitioner has applied to the above said post under Ex. Servicemen Category.

Totally there are 8 vacancies reserved for Ex-servicemen, amongst which three for general (Ex.Ser.), two for Back Ward Caste (Ex.Ser.), two for Most Backward Case (Ex.Ser.) and one for Schedule Caste (Ex.Ser.). The petitioner secured 42 marks and he was asked to submit his original documents on 10.04.2017.

2.1. One of the criteria for awarding mark is the period of waiting in employment exchange, ranging from one mark for one year to 10 marks for 10 years and above. Though the petitioner was given 10 marks during the certificate verification for having registration with the Ex-Servicemen Board for more than 10 years, it was subsequently cancelled without any notice.

2.2. Amongst the eight candidates, only 4 candidates i.e. the respondents 6 to 9 have joined the service and rest of four is lying vacant. Though the petitioner produced the bonafide certificate obtained from the 3rd respondent, i.e. Ex-Servicemen's Welfare Board, he was not given the job. Hence, the petitioner made representation dated 19.08.2017 to the 5th respondent. But by order dated 11.09.2017, the 5th respondent denied the appointment stating that those who registered with Ex-Servicemen Welfare Board cannot be granted seniority and only those who from employment exchange will be considered. Hence this writ petition.

3. The 5th defendant filed counter affidavit, wherein, it is stated as follows.

i) The Department of School Education, Chennai published a notification dated 22.04.2015 calling for application for appointment to the post of Laboratory Assistants. As per Service Rules, the Education qualification for the above said post is 10th, SSLC passed and the candidates shall enclose the attested copies of certificates relating to i) Educational Qualifications, ii) Community Certificate, iii) Employment Registration and iv) Priority Certificates for getting appointment in priority turn.

ii) As per communal roster maintained in the Chief Educational Office, Thiruvallur, for making direct appointment of Laboratory Assistants in Government High and Higher Secondary schools, 8 posts out of 179 total vacancies have to be filled up with Ex-servicemen priority candidates, i.e. 3 for General Turn (Exservicemen), 2 for B.C (other than muslims (Exservicemen), two for M.B.C. (Exservicemen) and one for S.C. (Exservicemen).

iii) The petitioner stated that he has registered in the Ex-servicemen Welfare Board for Re-employment. But, as per

recruitment rules for claiming weightage for Employment seniority, one has to register the Ex-servicemen" certificate issued by the Competent authority, before the Employment Exchange. But the petitioner has not registered in the Employment Exchange and hence, he is not entitled for award of weightage of marks for registering in Ex-Servicemen Welfare Board.

iv) The following qualified candidates were appointed as Laboratory Assistants in Rc.No.2748/A1/2015 dated 2015.

S . N O	Roll No.	Name	Sex	Date of Birth	Priority	Community to which he belongs	Marks in Written examination	Marks for Edl . Qualification	Marks for experience	Marks for marks	Total marks	Turn
	32100252	S.Narasimhan	M	01.6.67	Ex.Ser	mbc	61	5	4	0	70	Gen.Tun Ex.Ser
2	32101866	K.Magesh	M	15.6.74	Ex.ser	bc	56	5	4	0	65	Gen.Tun Ex.ser
3	32100851	Swamikannu. V	M	24.6.67	Ex.ser	sc	55	5	4	0	64	Gen.Tun Ex.ser
4	32101827	T.Kumar	M	3.6.69	Ex.ser	mbc	59	2	0	0	61	MBC tun Ex.ser
5	32106721	B.B.Elangovan	M	12..1.76	Ex.ser	bc	47	5	4	0	56	BC turn Ex.ser
6	32112553	Venkatesan. K	M	26.4.70	Ex.ser	BC	51	3	0	0	54	BC turn Ex.ser
7	32107294	Tamilselvan .S	M	24.10.72	Ex.ser	mbc	38	5	4	0	47	MBC turn Ex.ser
8		Reserved for Ex										SC .Ex.

v) The petitioner has secured only 42 marks in B.C. Exservicemen category, whereas the last candidate selected under BC Ex. category has secured 54 marks. The petitioner has stated that four vacancies were remaining unfilled in Ex-servicemen category and hence, he should be considered for selection for the unfilled vacancies. But out of four vacancies, three

vacancies are reserved for disabled categories and the remaining one vacancy is reserved for SC-Ex. category. Therefore, the petitioner could not be accommodated in the vacancies reserved for Disabled category and SC-Ex. Category and hence the writ petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader. I have perused the materials on record.

5. The submissions made by the learned Special Government Pleader is accepted. The petitioner is come under the category of B.C. Ex.Servicemen. Though 4 vacancies have not been not filled up, out of which, three vacancies are reserved for Disabled Category and one is for S.C. Ex. Catogery. Therefore, as rightly pointed out by the learned Special Government Pleader, the petitioner cannot be accommodated in the vacancies reserved for the above said categories. Hence, the petitioner is not entitled to get the relief as prayed in the writ petition.

6. In the result, the writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

mst

To

1. The Secretary Government of Tamil Nadu
School Education Department,
Govt. of Tamil Nadu, Fort St. George,
Chennai.

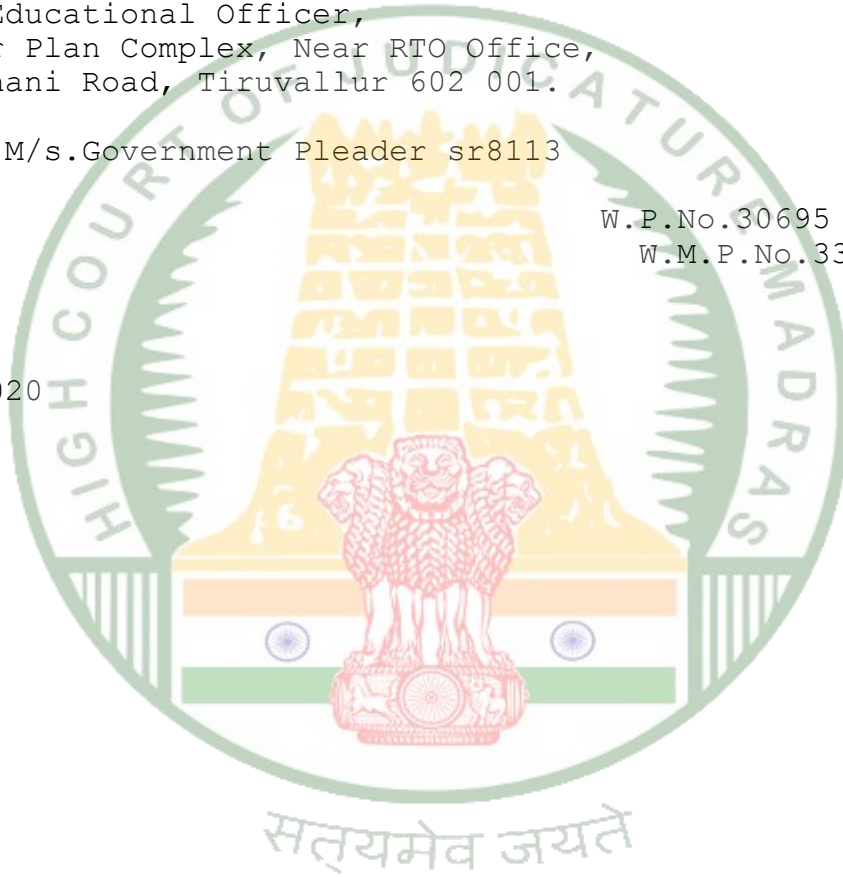
2.The Secretary Government of Tamil Nadu
Labour and employment Department,
Govt. of Tamil Nadu, Fort St. George,
Chennai.

3. Assistant Director,
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4. The Director,
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5. Chief Educational Officer,
Master Plan Complex, Near RTO Office,
Tiruthani Road, Tiruvallur 602 001.

+1 ccs to M/s.Government Pleader sr8113

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